

REFERENCE TITLE: land use near military heliports

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## HB 2640

Introduced by  
Representatives Nelson, Gorman

### AN ACT

AMENDING SECTIONS 9-461.05, 9-461.06, 9-462.04, 11-806, 11-821.03, 11-824, 11-829, 15-2002, 28-8461, 32-2181, 32-2183, 32-2195, 32-2195.03, 37-102, 41-1512 AND 41-1512.01, ARIZONA REVISED STATUTES; AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 272, SECTION 4 AND CHAPTER 293, SECTION 1; REPEALING SECTION 15-2041, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 287, SECTION 3; AMENDING TITLE 28, CHAPTER 25, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-8480.01, 28-8481.01, 28-8482.01, 28-8483.01 AND 28-8484.01; AMENDING TITLE 32, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2113.01; BLENDING MULTIPLE ENACTMENTS; RELATING TO MILITARY HELIPORT PLANNING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-461.05, Arizona Revised Statutes, is amended to read:

9-461.05. General plans; authority; scope

A. Each planning agency shall prepare and the governing body of each municipality shall adopt a comprehensive, long-range general plan for the development of the municipality. The planning agency shall coordinate the production of its general plan with the creation of the state land department conceptual land use plans under title 37, chapter 2, article 5.1 and shall cooperate with the state land department regarding integrating the conceptual state land use plans into the municipality's general land use plan. The general plan shall include provisions that identify changes or modifications to the plan that constitute amendments and major amendments. The plan shall be adopted and readopted in the manner prescribed by section 9-461.06.

B. The general plan shall be so prepared that all or individual elements of it may be adopted by the governing body and that it may be made applicable to all or part of the territory of the municipality.

C. The general plan shall consist of a statement of community goals and development policies. It shall include maps, any necessary diagrams and text setting forth objectives, principles, standards and plan proposals. The plan shall include the following elements:

1. A land use element that:

(a) Designates the proposed general distribution and location and extent of such uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land as may be appropriate to the municipality.

(b) Includes a statement of the standards of population density and building intensity recommended for the various land use categories covered by the plan.

(c) Identifies specific programs and policies that the municipality may use to promote infill or compact form development activity and locations where those development patterns should be encouraged.

(d) Includes consideration of air quality and access to incident solar energy for all general categories of land use.

(e) Includes policies that address maintaining a broad variety of land uses including the range of uses existing in the municipality when the plan is adopted, readopted or amended.

(f) For cities and towns with territory in the vicinity of a military airport, **MILITARY HELIPORT** or ancillary military facility as defined in section 28-8461, includes consideration of military airport, **MILITARY HELIPORT** or ancillary military facility operations. On or before December 31, 2005, if a city or town includes land in a high noise or accident potential zone as defined in section 28-8461, the city or town shall identify the boundaries of the high noise or accident potential zone in its general

1 plan for purposes of planning land uses in the high noise or accident  
2 potential zone that are compatible with the operation of the military airport  
3 or ancillary military facility pursuant to section 28-8481, subsection J. ON  
4 OR BEFORE DECEMBER 31, 2006, IF A CITY OR TOWN INCLUDES LAND WITHIN TERRITORY  
5 IN THE VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461, THE  
6 CITY OR TOWN SHALL IDENTIFY THE BOUNDARIES OF THE TERRITORY IN THE VICINITY  
7 OF THE MILITARY HELIPORT IN ITS GENERAL PLAN FOR PURPOSES OF PLANNING LAND  
8 USES IN THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT THAT ARE  
9 COMPATIBLE WITH THE OPERATION OF THE MILITARY HELIPORT FACILITY PURSUANT TO  
10 SECTION 28-8481.01.

11 2. A circulation element consisting of the general location and extent  
12 of existing and proposed freeways, arterial and collector streets, bicycle  
13 routes and any other modes of transportation as may be appropriate, all  
14 correlated with the land use element of the plan.

15 D. For cities and towns having a population of more than two thousand  
16 five hundred persons but less than ten thousand persons and whose population  
17 growth rate exceeded an average of two per cent per year for the ten year  
18 period before the most recent United States decennial census and for cities  
19 and towns having a population of ten thousand or more persons according to  
20 the most recent United States decennial census, the general plan shall  
21 include, and for other cities and towns the general plan may include:

22 1. An open space element that includes:

23 (a) A comprehensive inventory of open space areas, recreational  
24 resources and designations of access points to open space areas and  
25 resources.

26 (b) An analysis of forecasted needs, policies for managing and  
27 protecting open space areas and resources and implementation strategies to  
28 acquire additional open space areas and further establish recreational  
29 resources.

30 (c) Policies and implementation strategies designed to promote a  
31 regional system of integrated open space and recreational resources and a  
32 consideration of any existing regional open space plans.

33 2. A growth area element, specifically identifying those areas, if  
34 any, that are particularly suitable for planned multimodal transportation and  
35 infrastructure expansion and improvements designed to support a planned  
36 concentration of a variety of uses, such as residential, office, commercial,  
37 tourism and industrial uses. This element shall include policies and  
38 implementation strategies that are designed to:

39 (a) Make automobile, transit and other multimodal circulation more  
40 efficient, make infrastructure expansion more economical and provide for a  
41 rational pattern of land development.

42 (b) Conserve significant natural resources and open space areas in the  
43 growth area and coordinate their location to similar areas outside the growth  
44 area's boundaries.

(c) Promote the public and private construction of timely and financially sound infrastructure expansion through the use of infrastructure funding and financing planning that is coordinated with development activity.

3. An environmental planning element that contains analyses, policies and strategies to address anticipated effects, if any, of plan elements on air quality, water quality and natural resources associated with proposed development under the general plan. The policies and strategies to be developed under this element shall be designed to have community-wide applicability and shall not require the production of an additional environmental impact statement or similar analysis beyond the requirements of state and federal law.

4. A cost of development element that identifies policies and strategies that the municipality will use to require development to pay its fair share toward the cost of additional public service needs generated by new development, with appropriate exceptions when in the public interest. This element shall include:

(a) A component that identifies various mechanisms that are allowed by law and that can be used to fund and finance additional public services necessary to serve the development, including bonding, special taxing districts, development fees, in lieu fees, facility construction, dedications and service privatization.

(b) A component that identifies policies to ensure that any mechanisms that are adopted by the municipality under this element result in a beneficial use to the development, bear a reasonable relationship to the burden imposed on the municipality to provide additional necessary public services to the development and otherwise are imposed according to law.

5. A water resources element that addresses:

(a) The known legally and physically available surface water, groundwater and effluent supplies.

(b) The demand for water that will result from future growth projected in the general plan, added to existing uses.

(c) An analysis of how the demand for water that will result from future growth projected in the general plan will be served by the water supplies identified in subdivision (a) of this paragraph or a plan to obtain additional necessary water supplies.

E. The general plan shall include for cities of fifty thousand persons or more and may include for cities of less than fifty thousand persons the following elements or any part or phase of the following elements:

1. A conservation element for the conservation, development and utilization of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation element may also cover:

(a) The reclamation of land.

(b) Flood control.

1 (c) Prevention and control of the pollution of streams and other  
2 waters.

3 (d) Regulation of the use of land in stream channels and other areas  
4 required for the accomplishment of the conservation plan.

5 (e) Prevention, control and correction of the erosion of soils,  
6 beaches and shores.

7 (f) Protection of watersheds.

8 2. A recreation element showing a comprehensive system of areas and  
9 public sites for recreation, including the following and, if practicable,  
10 their locations and proposed development:

11 (a) Natural reservations.

12 (b) Parks.

13 (c) Parkways and scenic drives.

14 (d) Beaches.

15 (e) Playgrounds and playfields.

16 (f) Open space.

17 (g) Bicycle routes.

18 (h) Other recreation areas.

19 3. The circulation element provided for in subsection C, paragraph 2  
20 of this section shall also include for cities of fifty thousand persons or  
21 more and may include for cities of less than fifty thousand persons  
22 recommendations concerning parking facilities, building setback requirements  
23 and the delineations of such systems on the land, a system of street naming  
24 and house and building numbering and other matters as may be related to the  
25 improvement of circulation of traffic. The circulation element may also  
26 include:

27 (a) A transportation element showing a comprehensive transportation  
28 system, including locations of rights-of-way, terminals, viaducts and grade  
29 separations. This element of the plan may also include port, harbor,  
30 aviation and related facilities.

31 (b) A transit element showing a proposed system of rail or transit  
32 lines or other mode of transportation as may be appropriate.

33 4. A public services and facilities element showing general plans for  
34 police, fire, emergency services, sewage, refuse disposal, drainage, local  
35 utilities, rights-of-way, easements and facilities for them.

36 5. A public buildings element showing locations of civic and community  
37 centers, public schools, libraries, police and fire stations and other public  
38 buildings.

39 6. A housing element consisting of standards and programs for the  
40 elimination of substandard dwelling conditions, for the improvement of  
41 housing quality, variety and affordability and for provision of adequate  
42 sites for housing. This element shall contain an identification and analysis  
43 of existing and forecasted housing needs. This element shall be designed to  
44 make equal provision for the housing needs of all segments of the community  
45 regardless of race, color, creed or economic level.

1           7. A conservation, rehabilitation and redevelopment element consisting  
2 of plans and programs for:

- 3           (a) The elimination of slums and blighted areas.  
4           (b) Community redevelopment, including housing sites, business and  
5 industrial sites and public building sites.  
6           (c) Neighborhood preservation and revitalization.  
7           (d) Other purposes authorized by law.

8           8. A safety element for the protection of the community from natural  
9 and artificial hazards including features necessary for such protection as  
10 evacuation routes, peak load water supply requirements, minimum road widths  
11 according to function, clearances around structures and geologic hazard  
12 mapping in areas of known geologic hazards.

13           9. A bicycling element consisting of proposed bicycle facilities such  
14 as bicycle routes, bicycle parking areas and designated bicycle street  
15 crossing areas.

16           F. The water resources element of the general plan does not require:

- 17           1. New independent hydrogeologic studies.  
18           2. The city or town to be a water service provider.

19           G. The land use element of a general plan of a city with a population  
20 of more than one million persons shall include protections from encroaching  
21 development for any shooting range that is owned by this state and that is  
22 located within or adjacent to the exterior municipal boundaries on or before  
23 January 1, 2004. The general plan shall establish land use categories within  
24 at least one-half mile from the exterior boundaries of the shooting range  
25 that are consistent with the continued existence of the shooting range and  
26 that exclude incompatible uses such as residences, schools, hotels, motels,  
27 hospitals or churches except that land zoned to permit these incompatible  
28 uses on ~~the effective date of this amendment to this section~~ **AUGUST 25, 2004**  
29 are exempt from this exclusion. For the purposes of this subsection,  
30 "shooting range" means a permanently located and improved area that is  
31 designed and operated for the use of rifles, shotguns, pistols, silhouettes,  
32 skeet, trap, black powder or any other similar sport shooting in an outdoor  
33 environment. Shooting range does not include:

- 34           1. Any area for the exclusive use of archery or air guns.  
35           2. An enclosed indoor facility that is designed to offer a totally  
36 controlled shooting environment and that includes impenetrable walls, floor  
37 and ceiling, adequate ventilation, lighting systems and acoustical treatment  
38 for sound attenuation suitable for the range's approved use.

39           3. A national guard facility located in a city or town with a  
40 population of more than one million persons.

41           4. A facility that was not owned by this state before January 1, 2002.

42           H. The policies and strategies to be developed under these elements  
43 shall be designed to have community-wide applicability and this section does  
44 not authorize the imposition of dedications, exactions, fees or other  
45 requirements that are not otherwise authorized by law.

1           Sec. 2. Section 9-461.06, Arizona Revised Statutes, is amended to  
2 read:

3           9-461.06. Adoption and amendment of general plan: expiration  
4           and readoption

5           A. In municipalities that have territory in a high noise or accident  
6 potential zone as defined in section 28-8461 OR TERRITORY IN THE VICINITY OF  
7 A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461, the legislature finds that  
8 in general plans and amendments to general plans land use compatibility with  
9 the continued operation of a military airport, MILITARY HELIPORT or ancillary  
10 military facility as defined in section 28-8461 is a matter of statewide  
11 concern.

12           B. The general plan and any amendment to such plan shall be adopted or  
13 readopted in the manner provided in this article.

14           C. The governing body shall:

15           1. Adopt written procedures to provide effective, early and continuous  
16 public participation in the development and major amendment of general plans  
17 from all geographic, ethnic and economic areas of the municipality. The  
18 procedures shall provide for:

19           (a) The broad dissemination of proposals and alternatives.

20           (b) The opportunity for written comments.

21           (c) Public hearings after effective notice.

22           (d) Open discussions, communications programs and information  
23 services.

24           (e) Consideration of public comments.

25           2. Consult with, advise and provide an opportunity for official  
26 comment by public officials and agencies, the county, school districts,  
27 associations of governments, public land management agencies, the military  
28 airport if the municipality has territory in the vicinity of a military  
29 airport or ancillary military facility as defined in section 28-8461, THE  
30 MILITARY HELIPORT IF THE MUNICIPALITY HAS TERRITORY IN THE VICINITY OF A  
31 MILITARY HELIPORT AS DEFINED IN SECTION 28-8461, other appropriate government  
32 jurisdictions, public utility companies, civic, educational, professional and  
33 other organizations, property owners and citizens generally to secure maximum  
34 coordination of plans and to indicate properly located sites for all public  
35 purposes on the general plan.

36           D. At least sixty days before the general plan or an element or major  
37 amendment of a general plan is noticed pursuant to subsection E of this  
38 section, the planning agency shall transmit the proposal to the planning  
39 commission, if any, and the governing body and shall submit a copy for review  
40 and further comment to:

41           1. The planning agency of the county in which the municipality is  
42 located.

43           2. Each county or municipality that is contiguous to the corporate  
44 limits of the municipality or its area of extraterritorial jurisdiction.

1           3. The regional planning agency within which the municipality is  
2 located.

3           4. The department of commerce or any other state agency that is  
4 subsequently designated as the general planning agency for this state.

5           5. The department of water resources for review and comment on the  
6 water resources element, if a water resources element is required.

7           6. If the general plan or an element or amendment of the general plan  
8 is applicable to territory in the vicinity of a military airport, **MILITARY**  
9 **HELIPORT** or ancillary military facility as defined in section 28-8461, the  
10 military airport **OR MILITARY HELIPORT**.

11           7. If the general plan or an element or major amendment of the general  
12 plan is applicable to property **EITHER WITHIN TERRITORY IN THE VICINITY OF A**  
13 **MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in the high noise or  
14 accident potential zone of a military airport or ancillary military facility  
15 as defined in section 28-8461, the attorney general. For the purposes of  
16 this paragraph, "major amendment" means a substantial alteration of the  
17 municipality's land use mixture or balance as established in the  
18 municipality's existing general plan land use element.

19           8. Any person or entity that requests in writing to receive a review  
20 copy of the proposal.

21           E. If the municipality has a planning commission, after considering  
22 any recommendations from the review required under subsection D of this  
23 section the planning commission shall hold at least one public hearing before  
24 approving a general plan or any amendment to such plan. When the general  
25 plan or any major amendment is being adopted, planning commissions in  
26 municipalities having populations over twenty-five thousand persons shall  
27 hold two or more public hearings at different locations within the  
28 municipality to promote citizen participation. Notice of the time and place  
29 of a hearing and availability of studies and summaries related to the hearing  
30 shall be given at least fifteen and not more than thirty calendar days before  
31 the hearing by:

32           1. Publication at least once in a newspaper of general circulation  
33 published or circulated in the municipality, or if there is none, the notice  
34 shall be posted in at least ten public places in the municipality.

35           2. Such other manner in addition to publication as the municipality  
36 may deem necessary or desirable.

37           F. Action by the planning commission on the general plan or any  
38 amendment to the plan shall be transmitted to the governing body of the  
39 municipality.

40           G. Before adopting the general plan, or any amendment to it, the  
41 governing body shall hold at least one public hearing. Notice of the time  
42 and place of the hearing shall be given in the time and manner provided for  
43 the giving of notice of the hearing by the planning commission as specified  
44 in subsection E of this section.



1           H. The adoption or readoption of the general plan or any amendment to  
2 such plan shall be by resolution of the governing body of the municipality,  
3 after notice as provided for in subsection E of this section. The adoption  
4 or readoption of or a major amendment to the general plan shall be approved  
5 by affirmative vote of at least two-thirds of the members of the governing  
6 body of the municipality. All major amendments to the general plan proposed  
7 for adoption by the governing body of a municipality shall be presented at a  
8 single public hearing during the calendar year the proposal is made. The  
9 general plan, or any amendment to the plan, shall be endorsed in the manner  
10 provided by the governing body to show that it has been adopted by the  
11 governing body. If the municipality includes property [WITHIN TERRITORY IN](#)  
12 [THE VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461](#) OR in the  
13 high noise or accident potential zone of a military airport or ancillary  
14 military facility as defined in section 28-8461, the governing body of the  
15 municipality shall send notice of the approval, adoption or readoption of the  
16 general plan or major amendment to the general plan to the attorney general  
17 by certified mail, return receipt requested, within three business days after  
18 the approval, adoption or readoption. If the attorney general determines the  
19 approval, adoption or readoption of the general plan or major amendment to  
20 the general plan is not in compliance with section 28-8481, subsection J [OR](#)  
21 [SECTION 28-8481.01](#), the attorney general shall notify the municipality by  
22 certified mail, return receipt requested, of the determination of  
23 noncompliance. The municipality shall receive the notice from the attorney  
24 general within twenty-five days after the notice from the municipality to the  
25 attorney general is mailed pursuant to this subsection. The effective date of  
26 any approval, adoption or readoption of, or major amendment to, the general  
27 plan shall be thirty days after the governing body's receipt of the attorney  
28 general's determination of noncompliance. Within thirty days after the  
29 receipt of a determination of noncompliance by the attorney general as  
30 prescribed by this section, the governing body of the municipality shall  
31 reconsider any approval, adoption or readoption of, or major amendment to,  
32 the general plan that impacts property [WITHIN TERRITORY IN THE VICINITY OF A](#)  
33 [MILITARY HELIPORT AS DEFINED IN SECTION 28-8461](#) OR in the high noise or  
34 accident potential zone of a military airport or ancillary military facility  
35 as defined in section 28-8461. If the governing body reaffirms a prior  
36 action subject to an attorney general's determination of noncompliance  
37 pursuant to this section, the attorney general may institute a civil action  
38 pursuant to section 28-8481, subsection L [OR SECTION 28-8481.01, SUBSECTION](#)  
39 [K](#). If the governing body timely sends notice pursuant to this subsection and  
40 the attorney general fails to timely notify the governing body of a  
41 determination of noncompliance, the general plan or major amendment to the  
42 general plan shall be deemed to comply with section 28-8481, subsection J [AND](#)  
43 [SECTION 28-8481.01](#). If the motion to adopt or readopt a general plan or an  
44 amendment to the general plan fails to pass, the governing body may  
45 reconsider the motion in any manner allowed by the governing body's rules of

1 procedure, but any subsequent motion for the adoption or readoption of the  
2 general plan or a major amendment to the general plan must be approved by an  
3 affirmative vote of at least two-thirds of the members of the governing  
4 body. For the purposes of this subsection, "major amendment" means a  
5 substantial alteration of the municipality's land use mixture or balance as  
6 established in the municipality's existing general plan land use  
7 element. The municipality's general plan shall define the criteria to  
8 determine if a proposed amendment to the general plan effects a substantial  
9 alteration of the municipality's land use mixture or balance as established  
10 in the municipality's existing general plan land use element.

11 I. If the municipality does not have a planning commission, the only  
12 procedural steps required for the adoption of the general plan, or any  
13 amendment to such plan, shall be those provided in this article for action by  
14 the governing body.

15 J. A copy of the adopted general plan of a municipality shall be sent  
16 to the planning agency of the county within which the municipality is  
17 located, and such plan or any portion of the plan may be adopted as a part of  
18 the county general plan.

19 K. A general plan, with any amendments, is effective for up to ten  
20 years from the date the plan was initially adopted and ratified pursuant to  
21 subsection M of this section, or until the plan is readopted pursuant to this  
22 subsection and ratified pursuant to subsection M of this section or a new  
23 plan is adopted pursuant to this subsection and ratified pursuant to  
24 subsection M of this section, and becomes effective. On or before the tenth  
25 anniversary of the plan's most recent adoption, the governing body of the  
26 municipality shall either readopt the existing plan for an additional term of  
27 up to ten years or shall adopt a new general plan as provided by this  
28 article.

29 L. Except for general plans that are required to be submitted to the  
30 voters for ratification pursuant to subsection M of this section, the  
31 adoption or readoption of a general plan, and any amendment to a general  
32 plan, shall not be enacted as an emergency measure and is subject to  
33 referendum as provided by article IV, part 1, section 1, subsection (8),  
34 Constitution of Arizona, and title 19, chapter 1, article 4.

35 M. The governing body of a city or town having a population of more  
36 than two thousand five hundred persons but less than ten thousand persons and  
37 whose population growth rate exceeded an average of two per cent per year for  
38 the ten year period before the most recent United States decennial census,  
39 and any city or town having a population of ten thousand or more persons,  
40 shall submit each new general plan adopted pursuant to subsection K of this  
41 section to the voters for ratification at the next regularly scheduled  
42 municipal election or at a special election scheduled at least one hundred  
43 twenty days after the governing body adopted the plan pursuant to section  
44 16-204. The governing body shall include a general description of the plan  
45 and its elements in the municipal election pamphlet and shall provide public

1 copies of the plan in at least two locations that are easily accessible to  
2 the public and may include posting on the municipality's official internet  
3 web site. If a majority of the qualified electors voting on the proposition  
4 approves the new plan, it shall become effective as provided by law. If a  
5 majority of the qualified electors voting on the proposition fails to approve  
6 the new plan, the current plan remains in effect until a new plan is approved  
7 by the voters pursuant to this subsection. The governing body shall either  
8 resubmit the proposed new plan, or revise the new plan as provided by this  
9 section, for subsequent submission to the voters at the next regularly  
10 scheduled municipal election or at a special election scheduled at least one  
11 hundred twenty days after the governing body readopted the new or revised new  
12 plan. All subsequent adoptions and submissions of the new plan or revised  
13 plans must comply with the procedures prescribed by this section until the  
14 plan is ratified.

15 N. In applying an open space element or a growth element of a general  
16 plan a municipality shall not designate private land or state trust land as  
17 open space, recreation, conservation or agriculture unless the municipality  
18 receives the written consent of the landowner or provides an alternative,  
19 economically viable designation in the general plan or zoning ordinance,  
20 allowing at least one residential dwelling per acre. If the landowner is the  
21 prevailing party in any action brought to enforce this subsection, a court  
22 shall award fees and other expenses to the landowner. A municipality may  
23 designate land as open space without complying with the requirements of this  
24 subsection if the land was zoned as open space and used as a golf course  
25 pursuant to a zoning ordinance adopted pursuant to article 6.1 of this  
26 chapter before May 1, 2000 and the designation does not impose additional  
27 conditions, limitations or restrictions on the golf course, unless the land  
28 is state trust land that was not planned and zoned as open space pursuant to  
29 title 37, chapter 2, article 5.1.

30 Sec. 3. Section 9-462.04, Arizona Revised Statutes, is amended to  
31 read:

32 9-462.04. Public hearing required

33 A. If the municipality has a planning commission or a hearing officer,  
34 the planning commission or hearing officer shall hold a public hearing on any  
35 zoning ordinance. Notice of the time and place of the hearing including a  
36 general explanation of the matter to be considered and including a general  
37 description of the area affected shall be given at least fifteen days before  
38 the hearing in the following manner:

39 1. The notice shall be published at least once in a newspaper of  
40 general circulation published or circulated in the municipality, or if there  
41 is none, it shall be posted on the affected property in such a manner as to  
42 be legible from the public right-of-way and in at least ten public places in  
43 the municipality. A posted notice shall be printed so that the following are  
44 visible from a distance of one hundred feet: the word "zoning", the present

1 zoning district classification, the proposed zoning district classification  
2 and the date and time of the hearing.

3 2. In proceedings involving rezoning of land which abuts other  
4 municipalities or unincorporated areas of the county or a combination  
5 thereof, copies of the notice of public hearing shall be transmitted to the  
6 planning agency of such governmental unit abutting such land. In proceedings  
7 involving rezoning of land that is located within the territory in the  
8 vicinity of a military airport, **MILITARY HELIPORT** or ancillary military  
9 facility as defined in section 28-8461, the municipality shall send copies of  
10 the notice of public hearing by first class mail to the military airport **OR**  
11 **MILITARY HELIPORT**. In addition to notice by publication, a municipality may  
12 give notice of the hearing in such other manner as it may deem necessary or  
13 desirable.

14 3. In proceedings that are not initiated by the property owner  
15 involving rezoning of land which may change the zoning classification, notice  
16 by first class mail shall be sent to each real property owner, as shown on  
17 the last assessment of the property, of the area to be rezoned and all  
18 property owners, as shown on the last assessment of the property, within  
19 three hundred feet of the property to be rezoned.

20 4. In proceedings involving one or more of the following proposed  
21 changes or related series of changes in the standards governing land uses,  
22 notice shall be provided in the manner prescribed by paragraph 5:

23 (a) A ten per cent or more increase or decrease in the number of  
24 square feet or units that may be developed.

25 (b) A ten per cent or more increase or reduction in the allowable  
26 height of buildings.

27 (c) An increase or reduction in the allowable number of stories of  
28 buildings.

29 (d) A ten per cent or more increase or decrease in setback or open  
30 space requirements.

31 (e) An increase or reduction in permitted uses.

32 5. In proceedings governed by paragraph 4, the municipality shall  
33 provide notice to real property owners pursuant to at least one of the  
34 following notification procedures:

35 (a) Notice shall be sent by first class mail to each real property  
36 owner, as shown on the last assessment, whose real property is directly  
37 governed by the changes.

38 (b) If the municipality issues utility bills or other mass mailings  
39 that periodically include notices or other informational or advertising  
40 materials, the municipality shall include notice of such changes with such  
41 utility bills or other mailings.

42 (c) The municipality shall publish such changes prior to the first  
43 hearing on such changes in a newspaper of general circulation in the  
44 municipality. The changes shall be published in a "display ad" covering not  
45 less than one-eighth of a full page.

1           6. If notice is provided pursuant to paragraph 5, subdivision (b) or  
2 (c), the municipality shall also send notice by first class mail to persons  
3 who register their names and addresses with the municipality as being  
4 interested in receiving such notice. The municipality may charge a fee not  
5 to exceed five dollars per year for providing this service and may adopt  
6 procedures to implement this paragraph.

7           7. Notwithstanding the notice requirements set forth in paragraph 4,  
8 the failure of any person or entity to receive notice shall not constitute  
9 grounds for any court to invalidate the actions of a municipality for which  
10 the notice was given.

11           B. If the matter to be considered applies to territory in a high noise  
12 or accident potential zone as defined in section 28-8461 OR TERRITORY IN THE  
13 VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461, the notice  
14 prescribed in subsection A of this section shall include a general statement  
15 that the matter applies to property located in the high noise or accident  
16 potential zone OR TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT.

17           C. After the hearing, the planning commission or hearing officer shall  
18 render a decision in the form of a written recommendation to the governing  
19 body. The recommendation shall include the reasons for the recommendation  
20 and SHALL be transmitted to the governing body in such form and manner as may  
21 be specified by the governing body.

22           D. If the planning commission or hearing officer has held a public  
23 hearing, the governing body may adopt the recommendations of the planning  
24 commission or hearing officer without holding a second public hearing if  
25 there is no objection, request for public hearing or other protest. The  
26 governing body shall hold a public hearing if requested by the party  
27 aggrieved or any member of the public or of the governing body, or, in any  
28 case, if no public hearing has been held by the planning commission or  
29 hearing officer. In municipalities with territory in the vicinity of a  
30 military airport, MILITARY HELIPORT or ancillary military facility as defined  
31 in section 28-8461, the governing body shall hold a public hearing if, after  
32 notice is transmitted to the military airport OR MILITARY HELIPORT pursuant  
33 to subsection A of this section and before the public hearing, the military  
34 airport OR MILITARY HELIPORT provides comments or analysis concerning the  
35 compatibility of the proposed rezoning with the high noise or accident  
36 potential generated by military airport, MILITARY HELIPORT or ancillary  
37 military facility operations that may have an adverse impact on public health  
38 and safety, and the governing body shall consider and analyze the comments or  
39 analysis before making a final determination. Notice of the time and place  
40 of the hearing shall be given in the time and manner provided for the giving  
41 of notice of the hearing by the planning commission as specified in  
42 subsection A of this section. In addition a municipality may give notice of  
43 the hearing in such other manner as it may deem necessary or desirable.

44           E. A municipality may enact an ordinance authorizing county zoning to  
45 continue in effect until municipal zoning is applied to land previously zoned

1 by the county and annexed by the municipality, but in no event for longer  
2 than six months after the annexation.

3 F. A municipality is not required to adopt a general plan prior to the  
4 adoption of a zoning ordinance.

5 G. If there is no planning commission or hearing officer, the  
6 governing body of the municipality shall perform the functions assigned to  
7 the planning commission or hearing officer.

8 H. If the owners of twenty per cent or more either of the area of the  
9 lots included in a proposed change, or of those immediately adjacent in the  
10 rear or any side thereof extending one hundred fifty feet therefrom, or of  
11 those directly opposite thereto extending one hundred fifty feet from the  
12 street frontage of the opposite lots, file a protest in writing against a  
13 proposed amendment, it shall not become effective except by the favorable  
14 vote of three-fourths of all members of the governing body of the  
15 municipality. If any members of the governing body are unable to vote on  
16 such a question because of a conflict of interest, ~~then~~ the required number  
17 of votes for passage of the question shall be three-fourths of the remaining  
18 membership of the governing body, provided that such required number of votes  
19 shall in no event be less than a majority of the full membership of the  
20 legally established governing body.

21 I. In applying an open space element or a growth element of a general  
22 plan, a parcel of land shall not be rezoned for open space, recreation,  
23 conservation or agriculture unless the owner of the land consents to the  
24 rezoning in writing.

25 J. Notwithstanding ~~the provisions of~~ section 19-142, subsection B, a  
26 decision by the governing body involving rezoning of land which is not owned  
27 by the municipality and which changes the zoning classification of such land  
28 may not be enacted as an emergency measure and such change shall not be  
29 effective for at least thirty days after final approval of the change in  
30 classification by the governing body.

31 Sec. 4. Section 11-806, Arizona Revised Statutes, is amended to read:

32 11-806. Powers and duties; comprehensive plan

33 A. The commission shall act in an advisory capacity to the board and  
34 may from time to time, and shall, when requested by the board, make a report  
35 or recommendation in connection with any matter relating to the development  
36 of the county under the jurisdiction of the board. The commission shall make  
37 such investigations, maps, reports and recommendations in connection  
38 therewith as seem desirable within the limits of the funds available.

39 B. The commission shall prepare and recommend to the board a  
40 comprehensive plan of the area of jurisdiction of the county in the manner  
41 prescribed by article 2 of this chapter. The purpose of the plan is to bring  
42 about coordinated physical development in accordance with the present and  
43 future needs of the county. The comprehensive plan shall be developed so as  
44 to conserve the natural resources of the county, to ensure efficient  
45 expenditure of public funds, and to promote the health, safety, convenience,

1 and general welfare of the public. Such comprehensive plan may include but  
2 not be limited to, among other things, studies and recommendations relative  
3 to the location, character and extent of highways, railroads, bus and other  
4 transportation routes, bicycle facilities, bridges, public buildings, public  
5 services, schools, parks, open space, housing quality, variety and  
6 affordability, parkways, hiking and riding trails, airports, forests,  
7 wildlife areas, dams, projects affecting conservation of natural resources,  
8 air quality, water quality and floodplain zoning. For counties with  
9 territory in the vicinity of a military airport or ancillary military  
10 facility as defined in section 28-8461, the commission shall also consider  
11 military airport or ancillary military facility operations and, on or before  
12 December 31, 2005, shall identify the boundaries of any high noise or  
13 accident potential zone as defined in section 28-8461 in its comprehensive  
14 plan for purposes of planning land uses in the high noise or accident  
15 potential zone that are compatible with the operation of the military airport  
16 or ancillary military facility pursuant to section 28-8481, subsection J.  
17 FOR COUNTIES WITH TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AS DEFINED  
18 IN SECTION 28-8461, THE COMMISSION SHALL ALSO CONSIDER MILITARY HELIPORT  
19 OPERATIONS AND, ON OR BEFORE DECEMBER 31, 2006, SHALL IDENTIFY THE BOUNDARIES  
20 OF ANY TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT AS DEFINED IN  
21 SECTION 28-8461 IN ITS COMPREHENSIVE PLAN FOR PURPOSES OF PLANNING LAND USES  
22 IN THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT THAT ARE COMPATIBLE  
23 WITH THE OPERATION OF THE MILITARY HELIPORT PURSUANT TO SECTION 28-8481.01.  
24 Such comprehensive plan shall be a public record, but its purpose and effect  
25 shall be primarily as an aid to the county planning and zoning commission in  
26 the performance of its duties.

27 C. After considering any recommendations from the review required  
28 under subsection H of this section, the planning commission shall hold at  
29 least one public hearing. Notice of the time and place of a hearing and  
30 availability of studies and summaries related to the hearing shall be given  
31 at least fifteen and not more than thirty calendar days before the hearing  
32 by:

33 1. Publication at least once in a newspaper of general circulation in  
34 the county.

35 2. Such other manner in addition to publication as the county may deem  
36 necessary or desirable.

37 D. The board shall adopt a comprehensive plan and subsequently amend  
38 or extend the adopted plan as provided by article 2 of this chapter. Before  
39 the adoption, amendment or extension of the plan, the board shall hold at  
40 least one public hearing on the plan.

41 E. The board of supervisors shall:

42 1. Adopt written procedures to provide effective, early and continuous  
43 public participation in the development and major amendment of comprehensive  
44 plans from all geographic, ethnic and economic areas of the county. The  
45 procedures shall provide for:

- 1 (a) The broad dissemination of proposals and alternatives.
  - 2 (b) The opportunity for written comments.
  - 3 (c) Public hearings after effective notice.
  - 4 (d) Open discussions, communications programs and information
  - 5 services.
  - 6 (e) Consideration of public comments.
- 7 2. Consult with, advise and provide an opportunity for official
- 8 comment by public officials and agencies, municipalities, school districts,
- 9 associations of governments, public land management agencies, the military
- 10 airport OR MILITARY HELIPORT if the county's area of jurisdiction includes
- 11 territory in the vicinity of a military airport, MILITARY HELIPORT or
- 12 ancillary military facility as defined in section 28-8461, other appropriate
- 13 government jurisdictions, public utility companies, civic, educational,
- 14 professional and other organizations, property owners and citizens generally
- 15 to secure the maximum coordination of plans and to indicate properly located
- 16 sites for all public purposes on the plan.
- 17 3. In counties having a population of less than four hundred thousand
- 18 persons, receive petitions to form a rural planning area that are signed by
- 19 persons who own real property in any specific portion of the county outside
- 20 the corporate boundaries of any cities and towns. The petitions must be
- 21 signed by owners of a majority of the acres of real property in the proposed
- 22 planning area. Participation in the rural planning area is voluntary, and
- 23 any person may withdraw real property owned by the person from the planning
- 24 area. The board of supervisors shall encourage voluntary participation in
- 25 the planning area and shall aid the planning areas in providing a sound
- 26 factual and policy basis for planning. The recommendations of rural planning
- 27 areas shall emphasize voluntary, nonregulatory incentives for compliance and
- 28 accommodation of continuing traditional rural and agricultural
- 29 enterprises. Rural planning areas shall transmit their recommendations to
- 30 the board of supervisors for its consideration for inclusion in the county
- 31 comprehensive plan.
- 32 F. In any county having a population of less than four hundred
- 33 thousand persons, any cities and towns and the county sharing a
- 34 multijurisdictional area with a combined population of more than fifty
- 35 thousand but less than one hundred thousand persons, according to the most
- 36 recent department of economic security estimates, may voluntarily form rural
- 37 planning zones to develop coordinated and comprehensive regional plans.
- 38 G. The commission shall confer with the state land department and the
- 39 governing bodies and planning commissions of cities and towns in the county
- 40 for the purpose of guiding and accomplishing a coordinated, adjusted and
- 41 harmonious development of the county, of zoning districts, of urban growth
- 42 and of public improvements and utilities which do not begin and terminate
- 43 within the boundaries of any single city or town and which will, in
- 44 accordance with the present and future needs of the county, best promote with



1 efficiency and economy the health, safety, morals, order, convenience or  
2 general welfare of the public.

3 H. At least sixty days before the comprehensive plan or an element or  
4 major amendment of a comprehensive plan is noticed pursuant to subsection C  
5 of this section, the commission shall transmit the proposal to the board of  
6 supervisors and submit a copy for review and further comment to:

- 7 1. Each municipality in the county.
- 8 2. Each other county that is contiguous to the county.
- 9 3. The regional planning agency in the county.
- 10 4. The department of commerce or any other state agency that is  
11 subsequently designated as the general planning agency for this state.
- 12 5. The department of water resources for review and comment on the  
13 water resources element, if a water resources element is required.
- 14 6. If the comprehensive plan or an element or amendment of the  
15 comprehensive plan is applicable to territory in the vicinity of a military  
16 airport, **MILITARY HELIPORT** or ancillary military facility as defined in  
17 section 28-8461, the military airport **OR MILITARY HELIPORT**.
- 18 7. If the comprehensive plan or an element or major amendment of the  
19 comprehensive plan is applicable to property **WITHIN TERRITORY IN THE VICINITY**  
20 **OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in the high noise or  
21 accident potential zone of a military airport or ancillary military facility  
22 as defined in section 28-8461, the attorney general. For the purposes of  
23 this paragraph, "major amendment" means a substantial alteration of the  
24 county's land use mixture or balance as established in the county's existing  
25 comprehensive plan land use element for that area of the county.
- 26 8. Any person or entity that requests in writing to receive a review  
27 copy of the proposal.

28 I. If a county's area of jurisdiction includes land **WITHIN TERRITORY**  
29 **IN THE VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in a  
30 high noise or accident potential zone as defined in section 28-8461, in order  
31 to facilitate development in the high noise or accident potential zone **OR**  
32 **TERRITORY IN THE VICINITY OF A MILITARY HELIPORT** that conforms to the  
33 compatible uses prescribed in section 28-8481, subsection J **OR SECTION**  
34 **28-8481.01**, the county may approve the transfer of development rights and  
35 enter into intergovernmental agreements with any city or town or other  
36 county.

37 Sec. 5. Section 11-821.03, Arizona Revised Statutes, is amended to  
38 read:

39 **11-821.03. Transfer of development rights; definitions**

40 A. The board of supervisors may establish procedures, methods and  
41 standards for the transfer of development rights within its jurisdiction.  
42 Any proposed transfer of all or any portion of the development rights of a  
43 sending property to a receiving property is subject to the written approval  
44 and consent of the property owners of both the sending property and the  
45 receiving property. A county may not condition a change of zone on a

property owner's consent to or other participation in a proposed transfer of development rights, except that a change of zone may be required to implement a development agreement if it is voluntarily entered into by a property owner or owners with a county for the transfer of development rights concurrently with the county's approval of the change of zone. Before any transfer of development rights, a county shall adopt an ordinance providing for:

1. The establishment, execution and recordation of instruments to sever development rights transferred from the sending property and to affix such development rights to the receiving property. The instruments shall be executed by the property owners of the sending and receiving property and any lienholders.

2. The preservation of the characteristics of the sending property lending to the transfer of development rights and assurance that any of the prohibitions against particular uses or development of the sending property determined to be necessary to preserve such characteristics shall bind the property owner and every successor in interest to such property.

3. A delay prior to transfer of development rights to a receiving property after the severance of transferable development rights from a sending property.

4. The purchase, sale, exchange or other conveyance of transferable development rights before the rights are affixed to a receiving property.

5. Procedures for monitoring the severance, ownership and transfer of transferable development rights.

6. Appropriate public participation procedures for each type of transaction.

7. Use of development agreements as an option for implementation.

B. The resulting density or intensity of land use of the receiving property shall conform to the adopted comprehensive plan, as amended, if applicable. If a plan amendment is required prior to the transfer, it shall not be considered a major plan amendment.

C. For the purposes of this section:

1. "Ancillary military facility" has the same meaning prescribed in section 28-8461.

2. "Development rights" means the maximum development that would be allowed on the sending property under the adopted comprehensive plan, the specific plan, if any, or the zoning ordinance, whichever provides greater density or intensity of use or, if applicable, both, in effect on the date the county adopts an ordinance pursuant to subsection A **OF THIS SECTION**, respecting the permissible use, area, bulk or height of improvements made to one or more lots or parcels. Development rights may be calculated and allocated in accordance with factors including dwelling units, area, floor area, floor area ratio, height limitations, traffic generation or any other criteria that will quantify a value for the development rights in a manner that will carry out the objectives of this section.

1           3. "High noise or accident potential zone" has the same meaning ~~as~~  
2 prescribed in section 28-8461.

3           4. "Military airport" has the same meaning ~~as~~ prescribed in section  
4 28-8461.

5           5. "Receiving property" means one or more lots or parcels within which  
6 development rights are increased under the adopted comprehensive plan, the  
7 specific plan, if any, or the zoning ordinance, whichever provides greater  
8 density or intensity of use or, if applicable, both, in effect prior to a  
9 transfer of development rights and an amendment to the adopted comprehensive  
10 plan, specific plan or zoning ordinance, or a rezone of the property,  
11 whichever is required to implement the increase in development rights. The  
12 receiving property shall be suitable for development that includes the  
13 transferred development rights consistent with the adopted comprehensive  
14 plan, as amended, if applicable. Receiving property does not include lots or  
15 parcels that are partially or wholly located within, or that include,  
16 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION  
17 28-8461 OR a high noise or accident potential zone of a military airport or  
18 an ancillary military facility.

19           6. "Sending property" means one or more lots or parcels that are  
20 partially or wholly located within, or that include, a high noise or accident  
21 potential zone of a military airport or an ancillary military facility,  
22 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION  
23 28-8461, a floodplain, natural habitat, geologic features, recreation area or  
24 parkland, or land that has unique aesthetic, architectural or historic value,  
25 that a county determines is appropriate and necessary to restrict against  
26 particular uses or future development that would impair or preclude  
27 preservation of the characteristic or characteristics of the property or to  
28 protect the public because of health or safety concerns.

29           7. "Transfer of development rights" means the process by which  
30 development rights from one or more sending properties are affixed to one or  
31 more receiving properties.

32           Sec. 6. Section 11-824, Arizona Revised Statutes, is amended to read:

33           11-824. Adoption and amendment of county plan by board of  
34           supervisors; expiration and readoption

35           A. The board of supervisors may adopt the county comprehensive plan as  
36 a whole, or by successive actions adopt separate parts of the plan. The  
37 adoption or readoption of the comprehensive plan or any amendment to the plan  
38 shall be by resolution of the board. If the motion to adopt or readopt the  
39 plan or an amendment to the plan fails to pass, the board may reconsider the  
40 motion in any manner allowed by the board's rules of procedure, but any  
41 subsequent motion for the adoption or readoption of the plan or a major  
42 amendment to the plan must be approved by an affirmative vote of at least  
43 two-thirds of the members of the board.

44           B. A county comprehensive plan, with any amendments, is effective for  
45 up to ten years from the date the plan was initially adopted or until the

1 plan is readopted or a new plan is adopted pursuant to this subsection and  
2 becomes effective. On or before the tenth anniversary of the plan's most  
3 recent adoption, the board shall either readopt the existing plan for an  
4 additional term of up to ten years or shall adopt a new county plan as  
5 provided by this article.

6 C. The adoption or readoption of, or a major amendment to, the county  
7 comprehensive plan shall be approved by the affirmative vote of at least  
8 two-thirds of the members of the board. All major amendments proposed for  
9 adoption to the comprehensive plan by the board shall be presented at a  
10 single public hearing during the calendar year the proposal is made. The  
11 adoption or readoption of a county plan, and any major amendment to a county  
12 plan, shall not be enacted as an emergency measure and is subject to  
13 referendum as provided by article IV, part 1, section 1, subsection (8),  
14 Constitution of Arizona, and title 19, chapter 1, article 4. If the county's  
15 area of jurisdiction includes property **WITHIN TERRITORY IN THE VICINITY OF A**  
16 **MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in the high noise or  
17 accident potential zone of a military airport or ancillary military facility  
18 as defined in section 28-8461, the board shall send notice of the approval,  
19 adoption or readoption of the comprehensive plan or major amendment to the  
20 comprehensive plan to the attorney general by certified mail, return receipt  
21 requested, within three business days after the approval, adoption or  
22 readoption. If the attorney general determines the approval, adoption or  
23 readoption of the comprehensive plan or major amendment to the comprehensive  
24 plan is not in compliance with section 28-8481, subsection J **OR SECTION**  
25 **28-8481.01**, the attorney general shall notify the county by certified mail,  
26 return receipt requested, of the determination of noncompliance. The board  
27 shall receive the notice from the attorney general within twenty-five days  
28 after the notice from the board to the attorney general is mailed pursuant to  
29 this subsection. The effective date of any approval, adoption or readoption  
30 of, or major amendment to, the comprehensive plan shall be thirty days after  
31 the board's receipt of the attorney general's determination of noncompliance.  
32 Within thirty days after the receipt of a determination of noncompliance by  
33 the attorney general as prescribed by this section, the board shall  
34 reconsider any approval, adoption or readoption of, or major amendment to,  
35 the comprehensive plan that impacts property **WITHIN TERRITORY IN THE VICINITY**  
36 **OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in the high noise or  
37 accident potential zone of a military airport or ancillary military facility  
38 as defined in section 28-8461. If the board reaffirms a prior action subject  
39 to an attorney general's determination of noncompliance pursuant to this  
40 section, the attorney general may institute a civil action pursuant to  
41 section 28-8481, subsection L **OR SECTION 28-8481.01, SUBSECTION K**. If the  
42 board timely sends notice pursuant to this subsection and the attorney  
43 general fails to timely notify the board of a determination of noncompliance,  
44 the comprehensive plan or major amendment to the comprehensive plan shall be  
45 deemed to comply with section 28-8481, subsection J **AND SECTION 28-8481.01**.

1 If the board fails to adopt or readopt the plan, the current plan remains in  
2 effect until a new plan is adopted. The board shall either reconsider the  
3 proposed plan or consider a revised plan within one year and shall continue  
4 to do so until one is adopted. All subsequent considerations of a new or  
5 revised plan must comply with the procedures prescribed by this article. For  
6 the purposes of this subsection, "major amendment" means a substantial  
7 alteration of the county's land use mixture or balance as established in the  
8 county's existing comprehensive plan land use element for that area of the  
9 county. The county's comprehensive plan shall define the criteria to  
10 determine if a proposed amendment to the comprehensive plan effects a  
11 substantial alteration of the county's land use mixture or balance as  
12 established in the county's existing comprehensive plan land use element for  
13 that area of the county.

14 D. Upon adoption or readoption, the plan, or any part of the plan,  
15 shall be the official guide for the development of the area of jurisdiction.

16 E. Any change, amendment, extension or addition of the county plan may  
17 be made only in accordance with ~~the provisions of~~ this chapter.

18 F. In applying an open space element or a growth element of a  
19 comprehensive plan a county shall not designate private or state land as open  
20 space, recreation, conservation or agriculture unless the county receives the  
21 written consent of the landowner or provides an alternative, economically  
22 viable designation in the comprehensive plan or zoning ordinance, allowing at  
23 least one residential dwelling per acre. If the landowner is the prevailing  
24 party in any action brought to enforce this subsection, a court shall award  
25 fees and other expenses to the landowner. Each county shall incorporate this  
26 subsection into its comprehensive plan and provide a process for a landowner  
27 to resolve discrepancies relating to this subsection.

28 Sec. 7. Section 11-829, Arizona Revised Statutes, is amended to read:

29 11-829. Amendment of ordinance or change of zoning district  
30 boundaries; definition

31 A. A property owner or authorized agent of a property owner desiring  
32 an amendment or change in the zoning ordinance changing the zoning district  
33 boundaries within an area previously zoned shall file an application for the  
34 amendment or change. All zoning and rezoning ordinances, regulations or  
35 specific plans adopted under this article shall be consistent with and  
36 conform to the adopted county plan. In the case of uncertainty in  
37 constructing or applying the conformity of any part of a proposed rezoning  
38 ordinance to the adopted county plan, the ordinance shall be construed in a  
39 manner that will further the implementation of, and not be contrary to, the  
40 goals, policies and applicable elements of the county plan. A rezoning  
41 ordinance conforms with the county plan if it proposes land uses, densities  
42 or intensities within the range of identified uses, densities and intensities  
43 of the county plan.

44 B. The board of supervisors shall adopt by ordinance a citizen review  
45 process that applies to all rezoning and specific plan applications that

1 require a public hearing. The citizen review process shall include at least  
2 the following requirements:

3 1. Adjacent landowners and other potentially affected citizens will be  
4 notified of the application.

5 2. The county will inform adjacent landowners and other potentially  
6 affected citizens of the substance of the proposed rezoning.

7 3. Adjacent landowners and other potentially affected citizens will be  
8 provided an opportunity to express any issues or concerns that they may have  
9 with the proposed rezoning before the public hearing.

10 C. Upon receipt of the application the board shall submit it to the  
11 commission for a report. Prior to reporting to the board, the commission  
12 shall hold at least one public hearing thereon after giving at least fifteen  
13 days' notice thereof by one publication in a newspaper of general circulation  
14 in the county seat and by posting of the area included in the proposed  
15 change. If the matter to be considered applies to territory **IN THE VICINITY**  
16 **OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 OR** in a high noise or  
17 accident potential zone as defined in section 28-8461, the notice shall  
18 include a general statement that the matter applies to property located in  
19 **TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT OR** the high noise or  
20 accident potential zone. In case of a rezoning, the posting shall be in no  
21 less than two places with at least one notice for each quarter mile of  
22 frontage along perimeter public rights-of-way so that the notices are visible  
23 from the nearest public right-of-way. The commission shall also send notice  
24 by first class mail to each real property owner as shown on the last  
25 assessment of the property within three hundred feet of the proposed  
26 amendment or change and each county and municipality which is contiguous to  
27 the area of the amendment or change. In proceedings involving rezoning of  
28 land that is located within territory in the vicinity of a military airport,  
29 **MILITARY HELIPORT** or ancillary military facility as defined in section  
30 28-8461, the commission shall send copies of the notice of public hearing by  
31 first class mail to the military airport **OR MILITARY HELIPORT**. The notice  
32 sent by mail shall include, at a minimum, the date, time and place of the  
33 hearing on the proposed amendment or change including a general explanation  
34 of the matter to be considered, a general description of the area of the  
35 proposed amendment or change, how the real property owners within the zoning  
36 area may file approvals or protests of the proposed rezoning, and  
37 notification that if twenty per cent of the property owners by area and  
38 number within the zoning area file protests, an affirmative vote of  
39 three-fourths of all members of the board will be required to approve the  
40 rezoning. The following specific notice provisions also apply:

41 1. In proceedings that are initiated by the commission involving  
42 rezoning, notice by first class mail shall be sent to each real property  
43 owner, as shown on the last assessment of the property, of the area to be  
44 rezoned and all property owners, as shown on the last assessment of the  
45 property, within three hundred feet of the property to be rezoned.

1           2. In proceedings involving one or more of the following proposed  
2 changes or related series of changes in the standards governing land uses,  
3 notice shall be provided in the manner prescribed by paragraph 3 of this  
4 subsection:

5           (a) A ten per cent or more increase or decrease in the number of  
6 square feet or units that may be developed.

7           (b) A ten per cent or more increase or reduction in the allowable  
8 height of buildings.

9           (c) An increase or reduction in the allowable number of stories of  
10 buildings.

11           (d) A ten per cent or more increase or decrease in setback or open  
12 space requirements.

13           (e) An increase or reduction in permitted uses.

14           3. In proceedings governed by paragraph 2 of this subsection, the  
15 county shall provide notice to real property owners pursuant to at least one  
16 of the following notification procedures:

17           (a) Notice shall be sent by first class mail to each real property  
18 owner, as shown on the last assessment, whose real property is directly  
19 affected by the changes.

20           (b) If the county issues utility bills or other mass mailings that  
21 periodically include notices or other informational or advertising materials,  
22 the county shall include notice of such changes with such utility bills or  
23 other mailings.

24           (c) The county shall publish such changes prior to the first hearing  
25 on such changes in a newspaper of general circulation in the county. The  
26 changes shall be published in a display advertisement covering not less than  
27 one-eighth of a full page.

28           4. If notice is provided pursuant to paragraph 3, subdivision (b) or  
29 (c) of this subsection, the county shall also send notice by first class mail  
30 to persons who register their names and addresses with the county as being  
31 interested in receiving such notice. The county may charge a fee not to  
32 exceed five dollars per year for providing this service and may adopt  
33 procedures to implement this paragraph.

34           5. Notwithstanding the notice requirements set forth in paragraph 2 of  
35 this subsection, the failure of any person or entity to receive notice shall  
36 not constitute grounds for any court to invalidate the actions of a county  
37 for which the notice was given.

38           D. If the planning commission or hearing officer has held a public  
39 hearing, the board may adopt the recommendations of the planning commission  
40 or hearing officer through use of a consent calendar without holding a second  
41 public hearing if there is no objection, request for public hearing or other  
42 protest. If there is an objection, a request for public hearing or a  
43 protest, the board shall hold a public hearing thereon at least fifteen days'  
44 notice of which shall be given by one publication in a newspaper of general  
45 circulation in the county seat and by posting the area included in the



1 proposed change. In counties with territory in the vicinity of a military  
2 airport, **MILITARY HELIPORT** or ancillary military facility as defined in  
3 section 28-8461, the board shall hold a public hearing if, after notice is  
4 mailed to the military airport **OR MILITARY HELIPORT** pursuant to subsection C  
5 of this section and before the public hearing, the military airport **OR**  
6 **MILITARY HELIPORT** provides comments or analysis concerning the compatibility  
7 of the proposed rezoning with the high noise or accident potential generated  
8 by military airport, **MILITARY HELIPORT** or ancillary military facility  
9 operations that may have an adverse impact on public health and safety, and  
10 the board shall consider and analyze the comments or analysis before making a  
11 final determination. After holding the hearing the board may adopt the  
12 amendment, but if twenty per cent of the owners of property by area and  
13 number within the zoning area file a protest to the proposed change, the  
14 change shall not be made except by a three-fourths vote of all members of the  
15 board. If any members of the board are unable to vote on the question  
16 because of a conflict of interest, the required number of votes for the  
17 passage of the question is three-fourths of the remaining membership of the  
18 board, except that the required number of votes in no event shall be less  
19 than a majority of the full membership of the board. In calculating the  
20 owners by area, only that portion of a lot or parcel of record situated  
21 within three hundred feet of the property to be rezoned shall be  
22 included. In calculating the owners by number or area, county property and  
23 public rights-of-way shall not be included.

24 E. The planning commission ~~may~~, on its own motion, **MAY** propose an  
25 amendment to the zoning ordinance and ~~may~~, after holding a public hearing as  
26 required by this chapter, **MAY** transmit the proposal to the board which shall  
27 thereupon proceed as set forth in this chapter for any other amendment.

28 F. Notwithstanding ~~the provisions of~~ title 19, chapter 1, article 4, a  
29 decision by the governing body involving rezoning of land which is not owned  
30 by the county and which changes the zoning classification of such land or  
31 which changes the zoning standards of such land as set forth in subsection C,  
32 paragraph 2 of this section may not be enacted as an emergency measure and  
33 such a change shall not be effective for at least thirty days after final  
34 approval of the change in classification by the board. Unless a resident  
35 files a written objection with the board of supervisors, the rezoning may be  
36 enacted as an emergency measure that becomes effective immediately by a  
37 four-fifths majority vote of the board for those counties with five or more  
38 supervisors or a two-thirds majority vote of the board for those counties  
39 with ~~less~~ **FEWER** than five supervisors.

40 G. The legislature finds that a rezoning of land that changes the  
41 zoning classification of the land or that restricts the use or reduces the  
42 value of the land is a matter of statewide concern. Such a change in zoning  
43 that is initiated by the governing body or zoning body shall not be made  
44 without the express written consent of the property owner. In applying an  
45 open space element or a growth element of a county plan, a parcel of land



1 shall not be rezoned for open space, recreation, conservation or agriculture  
2 unless the owner of the land consents to the rezoning in writing. For the  
3 purposes of this subsection, rezoning does not include the creation or  
4 expansion of overlay zones solely for the purpose of implementing airport  
5 safety and protection. Rezoning also does not include the redesignation of  
6 areas of the county to which the residential provisions of the county  
7 building codes or the state plumbing code apply or do not apply. The county  
8 shall not adopt any change in a zoning classification to circumvent the  
9 purpose of this subsection.

10 H. For the purposes of this section, "zoning area" means the area  
11 within three hundred feet of the proposed amendment or change.

12 Sec. 8. Section 15-2002, Arizona Revised Statutes, is amended to read:  
13 15-2002. Powers and duties; executive director; staffing;  
14 report

15 A. The school facilities board shall:

16 1. Make assessments of school facilities and equipment deficiencies  
17 pursuant to section 15-2021 and approve the distribution of grants as  
18 appropriate.

19 2. Develop a database for administering the building renewal formula  
20 prescribed in section 15-2031 and administer the distribution of monies to  
21 school districts for building renewal.

22 3. Inspect school buildings at least once every five years to ensure  
23 compliance with the building adequacy standards prescribed in section 15-2011  
24 and routine preventative maintenance guidelines as prescribed in this section  
25 with respect to construction of new buildings and maintenance of existing  
26 buildings. The school facilities board shall randomly select twenty school  
27 districts every thirty months and inspect them pursuant to this paragraph.

28 4. Review and approve student population projections submitted by  
29 school districts to determine to what extent school districts are entitled to  
30 monies to construct new facilities pursuant to section 15-2041. The board  
31 shall make a final determination within six months of the receipt of an  
32 application by a school district for monies from the new school facilities  
33 fund.

34 5. Certify that plans for new school facilities meet the building  
35 adequacy standards prescribed in section 15-2011.

36 6. Develop prototypical elementary and high school designs. The board  
37 shall review the design differences between the schools with the highest  
38 academic productivity scores and the schools with the lowest academic  
39 productivity scores. The board shall also review the results of a valid and  
40 reliable survey of parent quality rating in the highest performing schools  
41 and the lowest performing schools in this state. The survey of parent  
42 quality rating shall be administered by the department of education. The  
43 board shall consider the design elements of the schools with the highest  
44 academic productivity scores and parent quality ratings in the development of  
45 elementary and high school designs. The board shall develop separate school

1 designs for elementary, middle and high schools with varying pupil  
2 capacities.

3 7. Develop application forms, reporting forms and procedures to carry  
4 out the requirements of this article.

5 8. Review and approve or reject requests submitted by school districts  
6 to take actions pursuant to section 15-341, subsection F.

7 9. Submit an annual report by December 15 to the speaker of the house  
8 of representatives, the president of the senate, the superintendent of public  
9 instruction, the director of the Arizona state library, archives and public  
10 records and the governor that includes the following information:

11 (a) A detailed description of the amount of monies distributed by the  
12 school facilities board in the previous fiscal year.

13 (b) A list of each capital project that received monies from the  
14 school facilities board during the previous fiscal year, a brief description  
15 of each project that was funded and a summary of the board's reasons for the  
16 distribution of monies for the project.

17 (c) A summary of the findings and conclusions of the building  
18 maintenance inspections conducted pursuant to this article during the  
19 previous fiscal year.

20 (d) A summary of the findings of common design elements and  
21 characteristics of the highest performing schools and the lowest performing  
22 schools based on academic productivity including the results of the parent  
23 quality rating survey. For the purposes of this ~~paragraph~~ SUBDIVISION,  
24 "academic productivity" means academic year advancement per calendar year as  
25 measured with student-level data using the statewide nationally standardized  
26 norm-referenced achievement test.

27 10. By December 1 of each year, report to the joint committee on  
28 capital review the amounts necessary to fulfill the requirements of sections  
29 15-2021, 15-2022, 15-2031 and 15-2041 for the following fiscal year and the  
30 estimated amounts necessary to fulfill the requirements of sections 15-2021,  
31 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal  
32 year. The board shall provide copies of the report to the president of the  
33 senate, the speaker of the house of representatives and the governor.

34 11. Adopt minimum school facility adequacy guidelines to provide the  
35 minimum quality and quantity of school buildings and the facilities and  
36 equipment necessary and appropriate to enable pupils to achieve the  
37 educational goals of the Arizona state schools for the deaf and the  
38 blind. The school facilities board shall establish minimum school facility  
39 adequacy guidelines applicable to the Arizona state schools for the deaf and  
40 the blind by December 31, 2000.

41 12. Beginning August 15, 2004, and each even-numbered year thereafter,  
42 report to the joint committee on capital review the amounts necessary to  
43 fulfill the requirements of sections 15-2031 and 15-2041 for the Arizona  
44 state schools for the deaf and the blind for the following two fiscal  
45 years. The Arizona state schools for the deaf and the blind shall

1 incorporate the findings of the report in any request for building renewal  
2 monies and new school facilities monies. Any monies provided to the Arizona  
3 state schools for the deaf and the blind for building renewal and for new  
4 school facilities are subject to legislative appropriation.

5 13. By October 15 of each year, submit information regarding  
6 demographic assumptions, a proposed construction schedule and new school  
7 construction cost estimates for the following fiscal year to the joint  
8 committee on capital review for its review.

9 14. Every two years, provide school districts with information on  
10 improving and maintaining the indoor environmental quality in school  
11 buildings.

12 B. The school facilities board may contract for private services in  
13 compliance with the procurement practices prescribed in title 41, chapter 23.

14 C. The governor shall appoint an executive director of the school  
15 facilities board pursuant to section 38-211. The executive director is  
16 eligible to receive compensation as determined pursuant to section 38-611 and  
17 may hire and fire necessary staff as approved by the legislature in the  
18 budget. The executive director shall have demonstrated competency in school  
19 finance, facilities design or facilities management, either in private  
20 business or government service. The executive director serves at the  
21 pleasure of the governor. The staff of the school facilities board is exempt  
22 from title 41, chapter 4, articles 5 and 6. The executive director:

23 1. Shall analyze applications for monies submitted to the board by  
24 school districts.

25 2. Shall assist the board in developing forms and procedures for the  
26 distribution and review of applications and the distribution of monies to  
27 school districts.

28 3. May review or audit, or both, the expenditure of monies by a school  
29 district for deficiencies corrections, building renewal and new school  
30 facilities.

31 4. Shall assist the board in the preparation of the board's annual  
32 report.

33 5. Shall research and provide reports on issues of general interest to  
34 the board.

35 6. May aid school districts in the development of reasonable and  
36 cost-effective school designs in order to avoid statewide duplicated efforts  
37 and unwarranted expenditures in the area of school design.

38 7. May assist school districts in facilitating the development of  
39 multijurisdictional facilities.

40 8. Shall assist the board in any other appropriate matter or method as  
41 directed by the members of the board.

42 9. Shall establish procedures to ensure compliance with the notice and  
43 hearing requirements prescribed in section 15-905. The notice and hearing  
44 procedures adopted by the board shall include the requirement, with respect  
45 to the board's consideration of any application filed after July 1, 2001 or

1 after December 31 of the year in which the property becomes territory in the  
2 vicinity of a military airport, **MILITARY HELIPORT** or ancillary military  
3 facility as defined in section 28-8461 for monies to fund the construction of  
4 new school facilities proposed to be located in territory in the vicinity of  
5 a military airport, **MILITARY HELIPORT** or ancillary military facility, that  
6 the military airport **OR MILITARY HELIPORT** receive notification of the  
7 application by first class mail at least thirty days before any hearing  
8 concerning the application.

9 10. May expedite any request for funds in which the local match was not  
10 obtained for a project that received preliminary approval by the state board  
11 for school capital facilities.

12 11. Shall expedite any request for funds in which the school district  
13 governing board submits an application that shows an immediate need for a new  
14 school facility.

15 12. Shall make a determination as to administrative completion within  
16 one month after the receipt of an application by a school district for monies  
17 from the new school facilities fund.

18 13. Shall provide technical support to school districts as requested by  
19 school districts in connection with the construction of new school facilities  
20 and the maintenance of existing school facilities.

21 D. When appropriate, the school facilities board shall review and use  
22 the statewide school facilities inventory and needs assessment conducted by  
23 the joint committee on capital review and issued in July, 1995.

24 E. The school facilities board shall contract with one or more private  
25 building inspectors to complete an initial assessment of school facilities  
26 and equipment provided in section 15-2021 and shall inspect each school  
27 building in this state at least once every five years to ensure compliance  
28 with section 15-2011. A copy of the inspection report, together with any  
29 recommendations for building maintenance, shall be provided to the school  
30 facilities board and the governing board of the school district.

31 F. The school facilities board may consider appropriate combinations  
32 of facilities or uses in making assessments of and curing deficiencies  
33 pursuant to subsection A, paragraph 1 of this section and in certifying plans  
34 for new school facilities pursuant to subsection A, paragraph 5 of this  
35 section.

36 G. The board shall not award any monies to fund new facilities that  
37 are financed by class A bonds that are issued by the school district.

38 H. The board shall not distribute monies to a school district for  
39 replacement or repair of facilities if the costs associated with the  
40 replacement or repair are covered by insurance or a performance or payment  
41 bond.

42 I. The board may contract for construction services and materials that  
43 are necessary to correct existing deficiencies in school district facilities  
44 as determined pursuant to section 15-2021. The board may procure the  
45 construction services necessary pursuant to this subsection by any method

1 including construction-manager-at-risk, design-build, design-bid-build or  
 2 job-order-contracting as provided by title 41, chapter 23. The construction  
 3 planning and services performed pursuant to this subsection are exempt from  
 4 section 41-791.01.

5 J. The school facilities board may enter into agreements with school  
 6 districts to allow school facilities board staff and contractors access to  
 7 school property for the purposes of performing the construction services  
 8 necessary pursuant to subsection I of this section.

9 K. By October 1, 2002, each school district shall develop routine  
 10 preventative maintenance guidelines for its facilities. The guidelines shall  
 11 be submitted to the school facilities board for review and approval by  
 12 February 1, 2003. If upon inspection by the school facilities board it is  
 13 determined that a school district facility was inadequately maintained  
 14 pursuant to the school district's routine preventative maintenance  
 15 guidelines, the school district shall use building renewal monies pursuant to  
 16 section 15-2031, subsection J to return the building to compliance with the  
 17 school district's routine preventative maintenance guidelines. Once the  
 18 district is in compliance, it no longer is required to use building renewal  
 19 monies for preventative maintenance.

20 L. The school facilities board may temporarily transfer monies between  
 21 the capital reserve fund established by section 15-2003, the deficiencies  
 22 correction fund established by section 15-2021, the emergency deficiencies  
 23 correction fund established by section 15-2022, the building renewal fund  
 24 established by section 15-2031 and the new school facilities fund established  
 25 by section 15-2041 if all of the following conditions are met:

26 1. The transfer is necessary to avoid a temporary shortfall in the  
 27 fund into which the monies are transferred.

28 2. The transferred monies are restored to the fund where the monies  
 29 originated as soon as practicable after the temporary shortfall in the other  
 30 fund has been addressed.

31 3. The school facilities board reports to the joint committee on  
 32 capital review the amount of and the reason for any monies transferred.

33 Sec. 9. Section 15-2041, Arizona Revised Statutes, as amended by Laws  
 34 2005, chapter 272, section 4 and chapter 293, section 1, is amended to read:

35 15-2041. New school facilities fund; capital plan; report

36 A. A new school facilities fund is established consisting of monies  
 37 appropriated by the legislature and monies credited to the fund pursuant to  
 38 section 37-221 ~~or 42-5030.01~~. The school facilities board shall administer  
 39 the fund and distribute monies, as a continuing appropriation, to school  
 40 districts for the purpose of constructing new school facilities. On June 30  
 41 of each fiscal year, any unobligated contract monies in the new school  
 42 facilities fund shall be transferred to the capital reserve fund established  
 43 by section 15-2003.

1           B. The school facilities board shall prescribe a uniform format for  
2 use by the school district governing board in developing and annually  
3 updating a capital plan that consists of each of the following:

4           1. Enrollment projections for the next five years for elementary  
5 schools and eight years for middle and high schools, including a description  
6 of the methods used to make the projections.

7           2. A description of new schools or additions to existing schools  
8 needed to meet the building adequacy standards prescribed in section 15-2011.  
9 The description shall include:

10           (a) The grade levels and the total number of pupils that the school or  
11 addition is intended to serve.

12           (b) The year in which it is necessary for the school or addition to  
13 begin operations.

14           (c) A timeline that shows the planning and construction process for  
15 the school or addition.

16           3. Long-term projections of the need for land for new schools.

17           4. Any other necessary information required by the school facilities  
18 board to evaluate a school district's capital plan.

19           5. If a school district pays tuition for all or a portion of the  
20 school district's high school pupils to another school district, the capital  
21 plan shall indicate the number of pupils for which the district pays tuition  
22 to another district. If a school district accepts pupils from another school  
23 district pursuant to section 15-824, subsection A, the school district shall  
24 indicate the projections for this population separately. This paragraph does  
25 not apply to a small isolated school district as defined in section 15-901.

26           C. If the capital plan indicates a need for a new school or an  
27 addition to an existing school within the next four years or a need for land  
28 within the next ten years, the school district shall submit its plan to the  
29 school facilities board by September 1 and shall request monies from the new  
30 school facilities fund for the new construction or land. Monies provided for  
31 land shall be in addition to any monies provided pursuant to subsection D of  
32 this section.

33           D. The school facilities board shall distribute monies from the new  
34 school facilities fund as follows:

35           1. The school facilities board shall review and evaluate the  
36 enrollment projections and either approve the projections as submitted or  
37 revise the projections. In determining new construction requirements, the  
38 school facilities board shall determine the net new growth of pupils that  
39 will require additional square footage that exceeds the building adequacy  
40 standards prescribed in section 15-2011. If the projected growth and the  
41 existing number of pupils exceeds three hundred fifty pupils who are served  
42 in a school district other than the pupil's resident school district, the  
43 school facilities board, the receiving school district and the resident  
44 school district shall develop a capital facilities plan on how to best serve  
45 those pupils. A small isolated school district as defined in section 15-901

1 is not required to develop a capital facilities plan pursuant to this  
2 paragraph.

3 2. If the approved projections indicate that additional space will not  
4 be needed within the next two years for elementary schools or three years for  
5 middle or high schools in order to meet the building adequacy standards  
6 prescribed in section 15-2011, the request shall be held for consideration by  
7 the school facilities board for possible future funding and the school  
8 district shall annually submit an updated plan until the additional space is  
9 needed.

10 3. If the approved projections indicate that additional space will be  
11 needed within the next two years for elementary schools or three years for  
12 middle or high schools in order to meet the building adequacy standards  
13 prescribed in section 15-2011, the school facilities board shall provide an  
14 amount as follows:

15 (a) Determine the number of pupils requiring additional square footage  
16 to meet building adequacy standards. This amount for elementary schools  
17 shall not be less than the number of new pupils for whom space will be needed  
18 in the next year and shall not exceed the number of new pupils for whom space  
19 will be needed in the next five years. This amount for middle and high  
20 schools shall not be less than the number of new pupils for whom space will  
21 be needed in the next four years and shall not exceed the number of new  
22 pupils for whom space will be needed in the next eight years.

23 (b) Multiply the number of pupils determined in subdivision (a) of  
24 this paragraph by the square footage per pupil. The square footage per pupil  
25 is ninety square feet per pupil for preschool children with disabilities,  
26 kindergarten programs and grades one through six, one hundred square feet for  
27 grades seven and eight, one hundred thirty-four square feet for a school  
28 district that provides instruction in grades nine through twelve for fewer  
29 than one thousand eight hundred pupils and one hundred twenty-five square  
30 feet for a school district that provides instruction in grades nine through  
31 twelve for at least one thousand eight hundred pupils. The total number of  
32 pupils in grades nine through twelve in the district shall determine the  
33 square footage factor to use for net new pupils. The school facilities board  
34 may modify the square footage requirements prescribed in this subdivision for  
35 particular schools based on any of the following factors:

36 (i) The number of pupils served or projected to be served by the  
37 school district.

38 (ii) Geographic factors.

39 (iii) Grade configurations other than those prescribed in this  
40 subdivision.

41 (iv) Compliance with minimum school facility adequacy requirements  
42 established pursuant to section 15-2011.

43 (c) Multiply the product obtained in subdivision (b) of this paragraph  
44 by the cost per square foot. The cost per square foot is ninety dollars for  
45 preschool children with disabilities, kindergarten programs and grades one

1 through six, ninety-five dollars for grades seven and eight and one hundred  
2 ten dollars for grades nine through twelve. The cost per square foot shall  
3 be adjusted annually for construction market considerations based on an index  
4 identified or developed by the joint legislative budget committee as  
5 necessary but not less than once each year. The school facilities board  
6 shall multiply the cost per square foot by 1.05 for any school district  
7 located in a rural area. The school facilities board may modify the base  
8 cost per square foot prescribed in this subdivision for particular schools  
9 based on geographic conditions or site conditions. For the purposes of this  
10 subdivision, "rural area" means an area outside a thirty-five mile radius of  
11 a boundary of a municipality with a population of more than fifty thousand  
12 persons.

13 (d) Once the school district governing board obtains approval from the  
14 school facilities board for new facility construction funds, additional  
15 portable or modular square footage created for the express purpose of  
16 providing temporary space for pupils until the completion of the new facility  
17 shall not be included by the school facilities board for the purpose of new  
18 construction funding calculations. On completion of the new facility  
19 construction project, if the portable or modular facilities continue in use,  
20 the portable or modular facilities shall be included as prescribed by this  
21 chapter, unless the school facilities board approves their continued use for  
22 the purpose of providing temporary space for pupils until the completion of  
23 the next new facility that has been approved for funding from the new school  
24 facilities fund.

25 4. For projects approved after December 31, 2001, and notwithstanding  
26 paragraph 3 of this subsection, a unified school district that does not have  
27 a high school is not eligible to receive high school space as prescribed by  
28 section 15-2011 and this section unless the unified district qualifies for  
29 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of  
30 this subsection.

31 E. Monies for architectural and engineering fees, project management  
32 SERVICES and preconstruction services shall be distributed on the completion  
33 of the analysis by the school facilities board of the school district's  
34 request. After receiving monies pursuant to this subsection, the school  
35 district shall submit a design development plan for the school or addition to  
36 the school facilities board before any monies for construction are  
37 distributed. If the school district's request meets the building adequacy  
38 standards, the school facilities board may review and comment on the  
39 district's plan with respect to the efficiency and effectiveness of the plan  
40 in meeting state square footage and facility standards before distributing  
41 the remainder of the monies. If the school facilities board modifies the  
42 cost per square foot as prescribed in subsection D, paragraph 3, subdivision  
43 (c), the school facilities board may deduct the cost of project management  
44 services and preconstruction services from the required cost per square



1 foot. The school facilities board may decline to fund the project if the  
2 square footage is no longer required due to revised enrollment projections.

3 F. The school facilities board shall distribute the monies needed for  
4 land for new schools so that land may be purchased at a price that is less  
5 than or equal to fair market value and in advance of the construction of the  
6 new school. If necessary, the school facilities board may distribute monies  
7 for land to be leased for new schools if the duration of the lease exceeds  
8 the life expectancy of the school facility by at least fifty per cent. The  
9 proceeds derived through the sale of any land purchased or partially  
10 purchased with monies provided by the school facilities board shall be  
11 returned to the state fund from which it was appropriated and to any other  
12 participating entity on a proportional basis. If a school district acquires  
13 real property by donation at an appropriate school site approved by the  
14 school facilities board, the school facilities board shall distribute an  
15 amount equal to twenty per cent of the fair market value of the donated real  
16 property that can be used for academic purposes. The school district shall  
17 place the monies in the unrestricted capital outlay fund and increase the  
18 unrestricted capital outlay limit by the amount of monies placed in the  
19 fund. Monies distributed under this subsection shall be distributed from the  
20 new school facilities fund. A school district shall not pay a consultant a  
21 percentage of the value of any of the following:

22 1. Donations of real property, services or cash from any of the  
23 following:

24 (a) Entities that have offered to provide construction services to the  
25 school district.

26 (b) Entities that have been contracted to provide construction  
27 services to the school district.

28 (c) Entities that build residential units in that school district.

29 (d) Entities that develop land for residential use in that school  
30 district.

31 2. Monies received from the school facilities board on behalf of the  
32 school district.

33 3. Monies paid by the school facilities board on behalf of the school  
34 district.

35 G. In addition to distributions to school districts based on pupil  
36 growth projections, a school district may submit an application to the school  
37 facilities board for monies from the new school facilities fund if one or  
38 more school buildings have outlived their useful life. If the school  
39 facilities board determines that the school district needs to build a new  
40 school building for these reasons, the school facilities board shall remove  
41 the square footage computations that represent the building from the  
42 computation of the school district's total square footage for purposes of  
43 this section. If the square footage recomputation reflects that the school  
44 district no longer meets building adequacy standards, the school district  
45 qualifies for a distribution of monies from the new school construction

1 formula in an amount determined pursuant to subsection D of this  
2 section. Buildings removed from a school district's total square footage  
3 pursuant to this subsection shall not be included in the computation of  
4 monies from the building renewal fund established by section 15-2031. The  
5 school facilities board may modify the base cost per square foot prescribed  
6 in this subsection under extraordinary circumstances for geographic factors  
7 or site conditions.

8 H. School districts that receive monies from the new school facilities  
9 fund shall establish a district new school facilities fund and shall use the  
10 monies in the district new school facilities fund only for the purposes  
11 prescribed in this section. By October 15 of each year, each school district  
12 shall report to the school facilities board the projects funded at each  
13 school in the previous fiscal year with monies from the district new school  
14 facilities fund and shall provide an accounting of the monies remaining in  
15 the new school facilities fund at the end of the previous fiscal year.

16 I. If a school district has surplus monies received from the new  
17 school facilities fund, the school district may use the surplus monies only  
18 for capital purposes for the project for up to one year after completion of  
19 the project. If the school district possesses surplus monies from the new  
20 school construction project that have not been expended within one year of  
21 the completion of the project, the school district shall return the surplus  
22 monies to the school facilities board for deposit in the new school  
23 facilities fund.

24 J. The board's consideration of any application filed after July 1,  
25 2001 or after December 31 of the year in which the property becomes territory  
26 in the vicinity of a military airport, **MILITARY HELIPORT** or ancillary  
27 military facility as defined in section 28-8461 for monies to fund the  
28 construction of new school facilities proposed to be located in territory in  
29 the vicinity of a military airport, **MILITARY HELIPORT** or ancillary military  
30 facility shall include, if after notice is transmitted to the military  
31 airport **OR MILITARY HELIPORT** pursuant to section 15-2002 and before the  
32 public hearing the military airport **OR MILITARY HELIPORT** provides comments  
33 and analysis concerning compatibility of the proposed school facilities with  
34 the high noise or accident potential generated by military airport, **MILITARY**  
35 **HELIPORT** or ancillary military facility operations that may have an adverse  
36 effect on public health and safety, consideration and analysis of the  
37 comments and analysis provided by the military airport **OR MILITARY HELIPORT**  
38 before making a final determination.

39 K. If a school district uses its own project manager for new school  
40 construction, the members of the school district governing board and the  
41 project manager shall sign an affidavit stating that the members and the  
42 project manager understand and will follow the minimum adequacy requirements  
43 prescribed in section 15-2011.

44 L. The school facilities board shall establish a separate account in  
45 the new school facilities fund designated as the litigation account to pay

1 attorney fees, expert witness fees and other costs associated with litigation  
2 in which the school facilities board pursues the recovery of damages for  
3 deficiencies correction that resulted from alleged construction defects or  
4 design defects that the school facilities board believes caused or  
5 contributed to a failure of the school building to conform to the building  
6 adequacy requirements prescribed in section 15-2011. Attorney fees paid  
7 pursuant to this subsection shall not exceed the market rate for similar  
8 types of litigation. Monies recovered as damages pursuant to this subsection  
9 shall be used to offset debt service on the correction of existing  
10 deficiencies as prescribed by section 15-2021. The joint committee on  
11 capital review shall conduct an annual review of the litigation account,  
12 including the costs associated with current and potential litigation.

13 M. Until the state board of education and the auditor general adopt  
14 rules pursuant to section 15-213, subsection I, the school facilities board  
15 may allow school districts to contract for construction services and  
16 materials through the qualified select bidders list method of project  
17 delivery for new school facilities pursuant to this section.

18 N. The school facilities board shall submit a report on project  
19 management services and preconstruction services to the governor, the  
20 president of the senate and the speaker of the house of representatives by  
21 December 31 of each year. The report shall compare projects that use project  
22 management and preconstruction services with those that do not. The report  
23 shall address cost, schedule and other measurable components of a  
24 construction project. School districts, construction manager at risk firms  
25 and project management firms that participate in a school facilities board  
26 funded project shall provide the information required by the school  
27 facilities board in relation to this report.

28 Sec. 10. Repeal

29 Section 15-2041, Arizona Revised Statutes, as amended by Laws 2005,  
30 chapter 287, section 3, is repealed.

31 Sec. 11. Section 28-8461, Arizona Revised Statutes, is amended to  
32 read:

33 28-8461. Definitions

34 In this article, unless the context otherwise requires:

35 1. "Accident potential zone one" means an area three thousand feet  
36 wide by five thousand feet long that starts at the end of each clear zone and  
37 that is centered and measured on the extended runway centerline, terminating  
38 eight thousand feet from the end of each runway and, for an ancillary  
39 military facility described in paragraph 7 of this section, includes an area  
40 delineated as accident potential zone one in the map described in paragraph 7  
41 of this section.

42 2. "Accident potential zone two" means an area three thousand feet  
43 wide by seven thousand feet long that starts at the end of each accident  
44 potential zone one and that is centered and measured on the extended runway  
45 centerline, terminating fifteen thousand feet from the end of each runway,

except that, for Luke air force base, accident potential zone two extends thirty thousand feet southwest from the end of each runway and, for an ancillary military facility described in paragraph 7 of this section, includes an area delineated as accident potential zone two in the map described in paragraph 7 of this section.

3. "Airport" means an area of land or water that is designed and set aside for the landing and taking off of aircraft and that is utilized or to be utilized in the interest of the public for those purposes.

4. "Airport hazard" means a structure, tree or use of land that obstructs the air space required for flight of aircraft in taking off or landing at an airport or that is otherwise hazardous to aircraft taking off or landing.

5. "Airport hazard area" means an area of land or water on which an airport hazard might be established if not prevented as provided in this article.

6. "Airstrip" means a strip of ground that is artificially or naturally surfaced and that is designed and used at an airport or landing field for the landing and takeoff of aircraft.

7. "Ancillary military facility" means:

(a) ~~For political subdivisions described in paragraph 9, subdivision (a) of this section,~~ The military auxiliary airfield that is identified on the map that is designated as Luke air force base auxiliary airfield #1, that is dated March 1, 2004 and that is on file in printed format at the state land department on ~~the effective date of this amendment to this section~~ **AUGUST 25, 2004** pursuant to section 37-102.

(b) For Luke air force base in Maricopa county, the military auxiliary field that is located in the town of Gila Bend, that is used to train specific military aircraft maneuvers or to perform a specific military airport function, that may or may not have a paved runway from which aircraft may or may not land, that is recognized by the military airport and political subdivisions in Maricopa county or the report of a cooperative land use planning effort among affected political subdivisions and the military airport in Maricopa county and that is identified on a map that is prepared by the state land department and kept on file with the state land department and the state real estate department pursuant to section 37-102.

(c) For Yuma marine corps air station in Yuma county, the military auxiliary field that is recognized by the military airport and political subdivisions in Yuma County or the report of a cooperative land use planning effort among affected political subdivisions and the military airport in Yuma county and that is identified on a map that is prepared by the state land department and kept on file with the state land department and the state real estate department pursuant to section 37-102.

8. "Clear zone" means an area three thousand feet long measured along the extended runway centerline beginning at the end of all main military runways and three thousand feet wide centered on and measured at right angles

1 to the extended runway centerline and, for an ancillary military facility  
2 described in paragraph 7 of this section, includes an area delineated as a  
3 clear zone in the map described in paragraph 7 of this section.

4 9. "High noise or accident potential zone" means any property located  
5 in the following zones:

6 (a) For Luke air force base in Maricopa county, within the 1988 noise  
7 contours developed and recognized by the regional planning agency in that  
8 county that includes the arrival and departure corridor that is the accident  
9 potential zone one and accident potential zone two plus the land area  
10 described as follows: starting two hundred feet from the south end of the  
11 westernmost runway at a width of one thousand five hundred feet west and two  
12 thousand five hundred feet east, measured perpendicular to the centerline of  
13 the runway, and extending southwesterly parallel to the runway for a distance  
14 of thirty thousand feet.

15 (b) For Davis-Monthan air force base in Pima county, the area  
16 southeast of the runway within the noise contours, accident potential zone  
17 one and accident potential zone two as established by the most recent air  
18 installation compatible use zone report issued by the United States  
19 department of defense or the zones established in the compatible land use  
20 plan in the joint land use study completed in February 2004.

21 (c) For Yuma marine corps air station and Laguna army airfield in Yuma  
22 county and Libby army airfield in Cochise county, within the noise contours  
23 established by the most recent air installation compatible use zone report  
24 recognized by the military airport and political subdivisions in that county  
25 or the report of a cooperative land use planning effort among affected  
26 political subdivisions and the military airport recognized by the military  
27 airport and political subdivisions in that county, including the arrival and  
28 departure corridor that is the accident potential zone one and accident  
29 potential zone two plus the land area described as follows: starting two  
30 hundred feet from the end points of the main runways and at a width of three  
31 thousand feet and symmetrical about a centerline between the runways  
32 extending outward to a point thirty thousand feet from the point of  
33 beginning. The outer width is seventeen thousand five hundred feet.

34 (d) For the ancillary military facility described in paragraph 7,  
35 subdivision (a) of this section, the land area inside the F-16 noise contour  
36 lines and the arrival and departure corridors designated as the accident  
37 potential zone one and the accident potential zone two on the map described  
38 in paragraph 7, subdivision (a) of this section.

39 (e) For the ancillary military facilities described in paragraph 7,  
40 subdivisions (b) and (c) of this section, the land areas designated as the  
41 high noise or accident potential zones and the arrival and departure  
42 corridors designated as the accident potential zone one and the accident  
43 potential zone two on the map of each ancillary military facility described  
44 in paragraph 7, subdivisions (b) and (c) of this section.

10. "Military airport" means an airport that is operated by an armed force of the United States and that is primarily used for military fixed wing aircraft operations, excluding a runway or airstrip that is not immediately adjacent to facilities primarily used for operational control, maintenance and permanent parking of aircraft.

~~11. "MILITARY HELIPORT" MEANS AN AIRPORT THAT IS OPERATED BY AN ARMED FORCE OF THE UNITED STATES AND THAT IS PRIMARILY USED FOR MILITARY ROTARY WING AIRCRAFT OPERATIONS, EXCLUDING A RUNWAY OR AIRSTRIP THAT IS NOT IMMEDIATELY ADJACENT TO FACILITIES PRIMARILY USED FOR OPERATIONAL CONTROL, MAINTENANCE AND PERMANENT PARKING OF AIRCRAFT.~~

~~11.~~ 12. "Military training route" means a low level military route that allows department of defense aircraft to conduct flights that may be as low as one hundred feet above the ground at speeds in excess of two hundred fifty knots indicated air speed as delineated in the military training route map pursuant to section 37-102.

~~12.~~ 13. "Occupied building" means any building where people live, work or are otherwise received.

~~13.~~ 14. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or body politic, including any trustee, receiver, assignee or other representative of a trustee, receiver or assignee.

~~14.~~ 15. "Political subdivision" means a city, town or county and includes a school district.

~~15.~~ 16. "Runway" means an artificially surfaced strip of ground that is designed and used at an airport for the landing and takeoff of aircraft.

~~16.~~ 17. "School" means any public institution established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of grades one through twelve.

~~17.~~ 18. "School district" means a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or an accommodation school.

~~18.~~ 19. "School district development plan" means any proposal to build or expand a school but does not include repairing, maintaining or remodeling an existing school.

~~19.~~ 20. "Structure" means an object that is constructed or installed by a human including a building, tower, smokestack or overhead transmission line.

~~20.~~ 21. "Territory in the vicinity" means any property located in the following zones:

(a) For Luke air force base in Maricopa county, the zone is ten miles to the north, south and west and four miles to the east parallel from the center of the main runway of a military airport.

(b) For Davis-Monthan air force base in Pima county, the zone is five miles to the northwest along a line extending from the end of the northwest

runway, one and one-half miles to the southwest, six and one-half miles to the northeast and perpendicular to the runway centerline and ten miles to the southeast along a line extending from the end of the southeast runway of a military airport.

(c) For Yuma marine corps air station and Laguna army airfield in Yuma county and Libby army airfield in Cochise county, the zone is five miles to the north, south and west and ten miles to the east of the center of the main runway of a military airport.

(d) For an ancillary military facility described in paragraph 7, subdivision (a) of this section, the land area designated as the territory in the vicinity on the map described in paragraph 7, subdivision (a) of this section.

(e) For the ancillary military facilities described in paragraph 7, subdivisions (b) and (c) of this section, the land areas designated as the territory in the vicinity on the map of each ancillary military facility described in paragraph 7, subdivisions (b) and (c) of this section.

(f) FOR A MILITARY HELIPORT, THE LAND LOCATED WITHIN ONE STATUTE MILE RADIUS FROM THE GEOGRAPHIC CENTER OF THE MILITARY HELIPORT.

~~21-~~ 22. "Tree" means an object of natural growth.

Sec. 12. Title 28, chapter 25, article 7, Arizona Revised Statutes, is amended by adding sections 28-8480.01, 28-8481.01, 28-8482.01, 28-8483.01 and 28-8484.01, to read:

28-8480.01. Military heliport continuation; land acquisition

IN ADDITION TO AUTHORITY GRANTED PURSUANT TO OTHER PROVISIONS OF LAW, A POLITICAL SUBDIVISION MAY ACQUIRE, BY EXCHANGE, PURCHASE, LEASE, DONATION, DEVISE OR CONDEMNATION, LAND OR INTERESTS IN LAND FOR THE CONTINUED OPERATION OF A MILITARY HELIPORT.

28-8481.01. Planning and zoning; military heliport operation compatibility; compliance review; penalty; definitions

A. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A MILITARY HELIPORT SHALL ADOPT COMPREHENSIVE AND GENERAL PLANS AND SCHOOL DISTRICT DEVELOPMENT PLANS, IF APPLICABLE, FOR PROPERTY WITHIN THE VICINITY OF THE MILITARY HELIPORT TO ASSURE DEVELOPMENT COMPATIBLE WITH MILITARY HELIPORT OPERATIONS BY PROHIBITING RESIDENTIAL DEVELOPMENT WITHIN THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT AFTER DECEMBER 31, 2006. EACH POLITICAL SUBDIVISION, EXCLUDING SCHOOL DISTRICTS, SHALL ADOPT AND ENFORCE ZONING REGULATIONS FOR PROPERTY WITHIN THE TERRITORY IN THE VICINITY OF A MILITARY HELIPORT TO ASSURE DEVELOPMENT COMPATIBLE WITH THE MILITARY HELIPORT OPERATIONS BY PROHIBITING RESIDENTIAL DEVELOPMENT WITHIN THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT AFTER DECEMBER 31, 2006. THIS SECTION DOES NOT AFFECT OR REQUIRE THE MODIFICATION OF ANY BUILDING CONSTRUCTED OR OTHERWISE OCCUPIED BEFORE DECEMBER 1, 2006 OR BEFORE JULY 1 OF THE YEAR IN WHICH THE LAND BECOMES TERRITORY IN THE VICINITY OF A MILITARY HELIPORT.

1           B. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A  
2       MILITARY HELIPORT SHALL INCORPORATE SOUND ATTENUATION STANDARDS PURSUANT TO  
3       SECTION 28-8482.01 INTO ANY BUILDING CODE IN EXISTENCE ON OR ADOPTED AFTER  
4       DECEMBER 1, 2006 OR AFTER JULY 1 OF THE YEAR IN WHICH THE LAND BECOMES  
5       TERRITORY IN THE VICINITY OF A MILITARY HELIPORT. THIS SECTION DOES NOT  
6       AFFECT OR REQUIRE THE MODIFICATION OF ANY BUILDING PERMIT ISSUED BEFORE  
7       DECEMBER 1, 2006 OR BEFORE JULY 1 OF THE YEAR IN WHICH THE LAND BECOMES  
8       TERRITORY IN THE VICINITY OF A MILITARY HELIPORT.

9           C. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A  
10      MILITARY HELIPORT SHALL ADOPT, ADMINISTER AND ENFORCE THE ZONING REGULATIONS  
11      OR SCHOOL DISTRICT DEVELOPMENT PLANS REQUIRED BY SUBSECTION A OF THIS SECTION  
12      IN THE SAME MANNER AS THE GENERAL OR COMPREHENSIVE ZONING ORDINANCE OR SCHOOL  
13      DISTRICT DEVELOPMENT PLANS OF THE POLITICAL SUBDIVISION AS PROVIDED BY LAW,  
14      EXCEPT THAT A VARIANCE SHALL NOT BE GRANTED WITHOUT A SPECIFIC FINDING THAT  
15      THE PURPOSE OF A MILITARY HELIPORT COMPATIBILITY IS PRESERVED.

16          D. THIS SECTION DOES NOT AFFECT THE EXISTING AUTHORITY OF A POLITICAL  
17      SUBDIVISION TO PLAN AND ZONE ON THE BASIS OF NOISE OR ACCIDENT POTENTIAL IN  
18      THE VICINITY OF AN AIRPORT OWNED OR CONTROLLED BY THE POLITICAL SUBDIVISION  
19      OR TO ADOPT RESTRICTIONS OR LIMITATIONS IN ADDITION TO THOSE REQUIRED BY THIS  
20      SECTION APPLICABLE TO TERRITORY IN THE VICINITY OF A MILITARY HELIPORT.

21          E. THIS SECTION DOES NOT RESTRICT, LIMIT OR MODIFY, OR AUTHORIZE OR  
22      REQUIRE ANY POLITICAL SUBDIVISION TO RESTRICT, LIMIT OR MODIFY, THE RIGHT OF  
23      A LANDOWNER TO UNDERTAKE AND COMPLETE DEVELOPMENT AND USE OF ANY PROPERTY  
24      UNDER THE TERMS AND CONDITIONS OF A DEVELOPMENT PLAN OR SCHOOL DISTRICT  
25      DEVELOPMENT PLAN APPROVED ON OR BEFORE DECEMBER 31, 2006, OR ON OR BEFORE  
26      DECEMBER 31 OF THE YEAR IN WHICH THE DEVELOPMENT'S PROPERTY BECOMES TERRITORY  
27      IN THE VICINITY OF A MILITARY HELIPORT, BY THE POLITICAL SUBDIVISION IN WHOSE  
28      TERRITORY OR AREA OF JURISDICTION THE PROPERTY IS LOCATED OR PURSUANT TO A  
29      WRITTEN DETERMINATION OF COMPATIBILITY ISSUED BY THE MILITARY HELIPORT ON OR  
30      BEFORE DECEMBER 31, 2006, EXCEPT THAT THE DEVELOPMENT SHALL COMPLY WITH THE  
31      SOUND ATTENUATION STANDARDS AND SPECIFICATIONS INCORPORATED INTO ANY BUILDING  
32      CODE ADOPTED PURSUANT TO SECTION 28-8482.01 BY THE POLITICAL SUBDIVISION IN  
33      WHOSE TERRITORY OR AREA OF JURISDICTION THE DEVELOPMENT IS LOCATED.

34          F. ON OR AFTER DECEMBER 1, 2006 OR ON OR AFTER DECEMBER 31 OF THE YEAR  
35      IN WHICH THE PROPERTY BECOMES TERRITORY IN THE VICINITY OF A MILITARY  
36      HELIPORT, A POLITICAL SUBDIVISION SHALL NOTIFY THE OWNER OR OWNERS OF  
37      PROPERTY IN THE TERRITORY IN THE VICINITY OF A MILITARY HELIPORT OF ANY  
38      ADDITIONS OR CHANGES UNDER THIS SECTION TO THE GENERAL PLAN, COMPREHENSIVE  
39      PLAN, ZONING REGULATIONS OR SCHOOL DISTRICT DEVELOPMENT PLAN OF THE POLITICAL  
40      SUBDIVISION APPLICABLE TO PROPERTY IN THE TERRITORY IN THE VICINITY OF THE  
41      MILITARY HELIPORT. THE POLITICAL SUBDIVISION SHALL PROVIDE A NOTICE OF SUCH  
42      ADDITIONS OR CHANGES BY PUBLICATION AS PROVIDED IN SECTION 9-462.04,  
43      SUBSECTION A OR SECTION 11-829, SUBSECTION C, INCLUDING A STATEMENT THAT THE  
44      PROPERTY IS LOCATED IN THE TERRITORY IN THE VICINITY OF A MILITARY HELIPORT,  
45      AT LEAST THIRTY DAYS BEFORE FINAL APPROVAL OF THE ADDITION TO OR CHANGE IN



1 THE GENERAL PLAN, PERMITTED LAND USES, ZONING REGULATION OR SCHOOL DISTRICT  
2 DEVELOPMENT PLAN AND WITHIN THIRTY DAYS FOLLOWING THE FINAL APPROVAL OF SUCH  
3 AN ADDITION TO OR CHANGE IN THE GENERAL PLAN, PERMITTED LAND USES, ZONING  
4 REGULATION OR SCHOOL DISTRICT DEVELOPMENT PLAN.

5 G. ANY PROPERTY OWNER DESCRIBED IN SUBSECTION F OF THIS SECTION SHALL  
6 NOTIFY POTENTIAL PURCHASERS OF THE PROPERTY AND ANY POTENTIAL LESSEES OR  
7 RENTERS THAT THE PROPERTY IS LOCATED IN TERRITORY IN THE VICINITY OF A  
8 MILITARY HELIPORT AND IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

9 H. IF A POLITICAL SUBDIVISION INCLUDES PROPERTY WITHIN THE TERRITORY  
10 IN THE VICINITY OF A MILITARY HELIPORT, THE POLITICAL SUBDIVISION SHALL SEND  
11 NOTICE TO THE ATTORNEY GENERAL OF ANY APPROVAL, ADOPTION OR READOPTION OF, OR  
12 MAJOR AMENDMENT TO, THE GENERAL OR COMPREHENSIVE PLAN THAT IMPACTS PROPERTY  
13 WITHIN THE TERRITORY OF A MILITARY HELIPORT WITHIN THREE BUSINESS DAYS AFTER  
14 THE APPROVAL, ADOPTION OR READOPTION. IF THE ATTORNEY GENERAL DETERMINES THE  
15 APPROVAL, ADOPTION OR READOPTION OF THE GENERAL OR COMPREHENSIVE PLAN OR THE  
16 MAJOR AMENDMENT TO THE GENERAL OR COMPREHENSIVE PLAN IS NOT IN COMPLIANCE  
17 WITH SUBSECTION A OF THIS SECTION, THE ATTORNEY GENERAL SHALL NOTIFY THE  
18 POLITICAL SUBDIVISION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE  
19 DETERMINATION OF NONCOMPLIANCE. WITHIN THIRTY DAYS AFTER THE RECEIPT OF A  
20 DETERMINATION OF NONCOMPLIANCE BY THE ATTORNEY GENERAL AS PRESCRIBED BY THIS  
21 SECTION, THE GOVERNING BODY OF THE POLITICAL SUBDIVISION SHALL RECONSIDER ANY  
22 APPROVAL, ADOPTION OR READOPTION OF, OR MAJOR AMENDMENT TO, THE GENERAL OR  
23 COMPREHENSIVE PLAN THAT IMPACTS PROPERTY WITHIN THE TERRITORY IN THE VICINITY  
24 OF A MILITARY HELIPORT. IF THE GOVERNING BODY REAFFIRMS A PRIOR ACTION  
25 SUBJECT TO AN ATTORNEY GENERAL'S DETERMINATION OF NONCOMPLIANCE PURSUANT TO  
26 THIS SECTION, THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION PURSUANT TO  
27 SUBSECTION K OF THIS SECTION. IF A POLITICAL SUBDIVISION TIMELY SENDS NOTICE  
28 PURSUANT TO THIS SUBSECTION AND THE ATTORNEY GENERAL FAILS TO TIMELY NOTIFY  
29 THE POLITICAL SUBDIVISION OF A DETERMINATION OF NONCOMPLIANCE, THE GENERAL OR  
30 COMPREHENSIVE PLAN OR MAJOR AMENDMENT TO THE GENERAL OR COMPREHENSIVE PLAN  
31 SHALL BE DEEMED TO COMPLY WITH SUBSECTION A OF THIS SECTION.

32 I. THE ATTORNEY GENERAL SHALL DETERMINE COMPLIANCE WITH THIS SECTION.  
33 IF THE POLITICAL SUBDIVISION AND THE MILITARY HELIPORT MUTUALLY AGREE THAT AN  
34 INDIVIDUAL USE IS COMPATIBLE AND CONSISTENT WITH TERRITORY IN THE VICINITY OF  
35 THE MILITARY HELIPORT, AS APPLICABLE, THE USE SHALL BE DEEMED TO COMPLY WITH  
36 THIS SECTION. ALTERNATIVELY, FOR AN INDIVIDUAL USE OR A PLAN FOR DEVELOPMENT  
37 SUBMITTED TO A MILITARY HELIPORT BEFORE DECEMBER 31, 2006, THIS SECTION DOES  
38 NOT PRECLUDE THE MILITARY HELIPORT FROM DETERMINING THAT THE INDIVIDUAL USE  
39 OR PLAN FOR DEVELOPMENT IS COMPATIBLE AND CONSISTENT WITH TERRITORY IN THE  
40 VICINITY OF THE MILITARY HELIPORT.

41 J. PURSUANT TO SUBSECTION H OF THIS SECTION, THE ATTORNEY GENERAL  
42 SHALL NOTIFY A POLITICAL SUBDIVISION BY CERTIFIED MAIL, RETURN RECEIPT  
43 REQUESTED, IF THE ATTORNEY GENERAL HAS PROBABLE CAUSE TO BELIEVE THAT THE  
44 POLITICAL SUBDIVISION HAS NOT COMPLIED WITH THE REQUIREMENTS SET FORTH IN  
45 SUBSECTION A OF THIS SECTION. NOTHING IN THIS SECTION SHALL AUTHORIZE OR

1 PERMIT A FINDING OF PROBABLE CAUSE OF NONCOMPLIANCE WITH RESPECT TO PROPERTY  
2 THAT IS THE SUBJECT OF A DEVELOPMENT PLAN.

3 K. THE FOLLOWING APPLY TO ENFORCEMENT ACTIONS BROUGHT UNDER THIS  
4 SECTION:

5 1. THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION IN THE NAME OF  
6 THIS STATE IN THE SUPERIOR COURT IN THE COUNTY OF THE ALLEGED VIOLATION  
7 AGAINST A POLITICAL SUBDIVISION THAT IS REQUIRED TO NOTIFY THE ATTORNEY  
8 GENERAL PURSUANT TO SUBSECTION H OF THIS SECTION TO RESTRAIN, ENJOIN, CORRECT  
9 OR ABATE A VIOLATION OF THIS SECTION, TO COLLECT A CIVIL PENALTY ORDERED  
10 PURSUANT TO THIS SECTION AND TO COLLECT ATTORNEY FEES AND COSTS ORDERED  
11 PURSUANT TO THIS SECTION IF THE ATTORNEY GENERAL HAS PROBABLE CAUSE TO  
12 BELIEVE THAT AN ACTION TO REAFFIRM AN APPROVAL, ADOPTION OR READOPTION OF, OR  
13 MAJOR AMENDMENT TO, THE GENERAL OR COMPREHENSIVE PLAN MADE BY A POLITICAL  
14 SUBDIVISION IS NOT IN COMPLIANCE WITH SUBSECTION A OF THIS SECTION.

15 2. IF THE ATTORNEY GENERAL INSTITUTES A CIVIL ACTION PURSUANT TO  
16 SUBSECTION H OF THIS SECTION, THE CIVIL ACTION SHALL BE FILED WITHIN THIRTY  
17 DAYS AFTER THE ACTION TO REAFFIRM AN APPROVAL, ADOPTION OR READOPTION OF, OR  
18 MAJOR AMENDMENT TO, THE GENERAL PLAN OR COMPREHENSIVE PLAN.

19 3. THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND OTHER COSTS IN  
20 FAVOR OF THE PREVAILING PARTY FOR ANY CIVIL ENFORCEMENT ACTION BROUGHT UNDER  
21 THIS SECTION. IF THE ATTORNEY GENERAL PREVAILS, MONIES AWARDED PURSUANT TO  
22 THIS PARAGRAPH SHALL BE RETAINED BY THE ATTORNEY GENERAL AND ARE CONTINUOUSLY  
23 APPROPRIATED.

24 4. THE COURT MAY ASSESS CIVIL PENALTIES IN FAVOR OF THIS STATE TO BE  
25 DEPOSITED IN THE STATE GENERAL FUND. THE POLITICAL SUBDIVISION MAY BE LIABLE  
26 FOR A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR EACH DAY FOR THE FIRST  
27 TEN DAYS AND UP TO FIVE THOUSAND DOLLARS FOR EACH SUBSEQUENT DAY UP TO A  
28 MAXIMUM OF FIFTY THOUSAND DOLLARS.

29 L. A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A  
30 MILITARY HELIPORT SHALL SUBMIT ANY PROPOSED COMPREHENSIVE OR GENERAL PLAN  
31 AMENDMENTS THAT ARE APPLICABLE TO PROPERTY WITHIN THE TERRITORY IN THE  
32 VICINITY OF A MILITARY HELIPORT TO THE ATTORNEY GENERAL AT LEAST FIFTEEN DAYS  
33 BEFORE THE FIRST PUBLIC HEARING REQUIRED PURSUANT TO SECTION 9-461.06 OR  
34 11-806.

35 M. A POLITICAL SUBDIVISION SHALL NOT PERMIT OR APPROVE A DIVISION OF  
36 LAND ZONED FOR RESIDENTIAL USE THAT IS IN TERRITORY IN THE VICINITY OF A  
37 MILITARY HELIPORT IF THE DIVISION WOULD RESULT IN A LOT, PARCEL OR FRACTIONAL  
38 INTEREST BEING FOUR ACRES OR LESS UNLESS THE LAND DIVISION IS PART OF A  
39 DEVELOPMENT PLAN OR A DEVELOPMENT AGREEMENT APPROVED BEFORE DECEMBER 31, 2006  
40 OR IS DETERMINED BY THE MILITARY HELIPORT TO BE COMPATIBLE WITH ITS  
41 OPERATIONS BEFORE DECEMBER 31, 2006. A POLITICAL SUBDIVISION MAY GRANT A  
42 WAIVER FROM THIS SUBSECTION.

43 N. FOR PURPOSES OF DETERMINING THE FAIR MARKET VALUE OF PROPERTY  
44 LOCATED IN TERRITORY IN THE VICINITY OF A MILITARY HELIPORT, OR THE  
45 DEVELOPMENT RIGHTS APPURTENANT TO THE PROPERTY, FOR ACQUISITION BY AN AGENCY

OR INSTRUMENTALITY OF THE UNITED STATES, THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, PROPERTY LOCATED IN TERRITORY IN THE VICINITY OF A MILITARY HELIPORT THAT IS NOT THE SUBJECT OF A DEVELOPMENT PLAN UNDER SUBSECTION E OF THIS SECTION SHALL BE DEEMED TO HAVE ZONING ALLOWING AT LEAST ONE RESIDENTIAL DWELLING PER ACRE.

0. FOR THE PURPOSES OF THIS SECTION:

1. "DEVELOPMENT PLAN":

(a) MEANS A PLAN THAT IS SUBMITTED TO AND APPROVED BY THE GOVERNING BODY OF THE POLITICAL SUBDIVISION PURSUANT TO A ZONING ORDINANCE OR REGULATION ADOPTED PURSUANT TO TITLE 9, CHAPTER 4, ARTICLE 6.1 OR TITLE 11, CHAPTER 6 AND THAT DESCRIBES WITH REASONABLE CERTAINTY THE DENSITY AND INTENSITY OF USE FOR A SPECIFIC PARCEL OR PARCELS OF PROPERTY.

(b) INCLUDES A PLANNED COMMUNITY DEVELOPMENT PLAN, A PLANNED AREA DEVELOPMENT PLAN, A PLANNED UNIT DEVELOPMENT PLAN, A DEVELOPMENT PLAN THAT IS THE SUBJECT OF A DEVELOPMENT AGREEMENT ADOPTED PURSUANT TO SECTION 9-500.05 OR 11-1101, A SITE PLAN, A SUBDIVISION PLAT OR ANY OTHER LAND USE APPROVAL DESIGNATION THAT IS THE SUBJECT OF A ZONING ORDINANCE ADOPTED PURSUANT TO TITLE 9, CHAPTER 4, ARTICLE 6.1 OR TITLE 11, CHAPTER 6.

2. "MAJOR AMENDMENT" MEANS A SUBSTANTIAL ALTERATION OF A POLITICAL SUBDIVISION'S LAND USE MIXTURE OR BALANCE AS ESTABLISHED IN THE POLITICAL SUBDIVISION'S EXISTING GENERAL OR COMPREHENSIVE PLAN LAND USE ELEMENT.

28-8482.01. Incorporation of sound attenuation standards in building codes; military heliports

A. A POLITICAL SUBDIVISION THAT INCLUDES TERRITORY IN THE VICINITY OF A MILITARY HELIPORT SHALL INCORPORATE THE SOUND ATTENUATION STANDARDS AND SPECIFICATIONS PRESCRIBED IN THIS SECTION INTO ANY BUILDING CODE IN EXISTENCE ON OR ADOPTED AFTER DECEMBER 31, 2006 OR ADOPTED ON OR AFTER THE DATE THE LAND BECOMES TERRITORY IN THE VICINITY OF A MILITARY HELIPORT. THESE STANDARDS AND SPECIFICATIONS APPLY TO ALTERATIONS TO EXISTING RESIDENTIAL BUILDINGS THAT ARE THE SUBJECT OF BUILDING PERMITS ISSUED AFTER DECEMBER 31, 2006 OR AFTER DECEMBER 31 OF THE YEAR IN WHICH THE LAND BECOMES TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AND THAT ARE LOCATED ON PROPERTY IN TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AND DO NOT APPLY TO NEW DEVELOPMENT AND ALTERATIONS THAT ARE LOCATED ON PROPERTY WITHIN CORPORATE LIMITS OF A MUNICIPALITY BUT OUTSIDE TERRITORY IN THE VICINITY OF A MILITARY HELIPORT.

B. NOT LATER THAN DECEMBER 31, 2006 OR NOT LATER THAN DECEMBER 31 OF THE YEAR IN WHICH THE LAND BECOMES TERRITORY IN THE VICINITY OF A MILITARY HELIPORT, A POLITICAL SUBDIVISION THAT HAS TERRITORY IN THE VICINITY OF A MILITARY HELIPORT SHALL ADOPT AN ORDINANCE THAT REQUIRES A NOISE LEVEL REDUCTION TO BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF ANY RESIDENTIAL BUILDING OR PORTIONS OF BUILDINGS WHERE THE PUBLIC IS RECEIVED, OFFICE AREAS AND WHERE NORMAL NOISE LEVEL IS LOW FOR FIRST OCCUPANCY, INCLUDING LIBRARIES, SCHOOLS AND CHURCHES, PURSUANT TO BUILDING PERMITS ISSUED AFTER DECEMBER 31, 2006 IN ORDER TO ACHIEVE A MAXIMUM INTERIOR NOISE

1 LEVEL OF FORTY-FIVE DECIBELS IN AREAS IN THE VICINITY OF A MILITARY HELIPORT.  
2 IN ORDER TO COMPLY WITH THIS SECTION, AN ORDINANCE SHALL REQUIRE THAT ALL  
3 COMPATIBLE BUILDINGS IN THE TERRITORY IN THE VICINITY OF A MILITARY HELIPORT  
4 SHALL BE CONSTRUCTED WITH A MINIMUM OF R18 EXTERIOR WALL ASSEMBLY, A MINIMUM  
5 OF R30 ROOF AND CEILING ASSEMBLY, DUAL-GLAZED WINDOWS AND SOLID WOOD,  
6 FOAM-FILLED FIBERGLASS OR METAL DOORS TO THE EXTERIOR OR, IF THE SPECIFIED  
7 BUILDING STANDARDS ARE NOT MET, THE POLITICAL SUBDIVISION MAY APPROVE, AS AN  
8 ALTERNATIVE, A CERTIFICATION BY AN ARCHITECT OR ENGINEER REGISTERED PURSUANT  
9 TO TITLE 32, CHAPTER 1 TO ACHIEVE A MAXIMUM INTERIOR NOISE LEVEL OF  
10 FORTY-FIVE DECIBELS AT THE TIME OF FINAL CONSTRUCTION. A SOUND ATTENUATION  
11 ORDINANCE ADOPTED BY A POLITICAL SUBDIVISION PURSUANT TO THIS SUBSECTION  
12 SHALL NOT REQUIRE A MAXIMUM INTERIOR NOISE LEVEL THAT IS LESS THAN THE  
13 MAXIMUM INTERIOR NOISE LEVEL REQUIRED BY THIS SUBSECTION.

14 C. THE SOUND ATTENUATION REQUIREMENTS OF THIS SECTION DO NOT APPLY TO  
15 ANCILLARY BUILDINGS USED IN AGRICULTURAL LAND USE.

16 D. IF THE GROSS FLOOR AREA OF A STRUCTURE OR PROJECT IS EXPANDED BY  
17 LESS THAN FIFTY PER CENT, THE REQUIREMENTS OF THIS SECTION APPLY ONLY TO THE  
18 AREA OF EXPANSION. IF THE GROSS FLOOR AREA OF A STRUCTURE OR PROJECT IS  
19 EXPANDED BY FIFTY PER CENT OR MORE, THE REQUIREMENTS OF THIS SECTION APPLY TO  
20 THE ENTIRE STRUCTURE, EXCEPT FOR EXISTING SINGLE FAMILY, MOBILE HOME,  
21 MANUFACTURED HOUSING UNIT OR DUPLEX DWELLINGS OR ANY MULTIFAMILY PROPERTY  
22 CONSTRUCTED BEFORE DECEMBER 31, 2006 USED FOR RESIDENTIAL PURPOSES.

23 E. FOR THE PURPOSES OF THIS SECTION, POLITICAL SUBDIVISION DOES NOT  
24 INCLUDE A SCHOOL DISTRICT.

25 28-8483.01. Registry of military heliports; public inspection

26 THE STATE REAL ESTATE DEPARTMENT AND POLITICAL SUBDIVISIONS THAT HAVE  
27 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT SHALL REQUEST FROM EACH  
28 MILITARY HELIPORT IN THIS STATE A REGISTRY OF INFORMATION INCLUDING MAPS  
29 DEPICTING THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT AND A LIST  
30 OF CONTACT PERSONS AT EACH MILITARY HELIPORT WHO ARE KNOWLEDGEABLE ABOUT THE  
31 IMPACTS OF MILITARY FLIGHT OPERATIONS IN THE TERRITORY IN THE VICINITY OF THE  
32 MILITARY HELIPORT. EACH REGISTRY SHALL CONTAIN THE INFORMATION PROVIDED BY  
33 THE MILITARY HELIPORT, INCLUDING ANY MAP PREPARED PURSUANT TO SECTION  
34 28-8484.01, SUBSECTION B. THE STATE REAL ESTATE DEPARTMENT AND POLITICAL  
35 SUBDIVISIONS SHALL MAINTAIN THE REGISTRY OF INFORMATION PROVIDED BY THE  
36 MILITARY HELIPORT AND MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON REQUEST.

37 28-8484.01. Military heliport disclosure; residential property

38 A. ANY PUBLIC REPORT ISSUED AFTER DECEMBER 31, 2006 PURSUANT TO  
39 SECTION 32-2183 OR 32-2195.03 APPLICABLE TO PROPERTY THAT IS LOCATED IN  
40 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT SHALL INCLUDE THE FOLLOWING  
41 STATEMENTS:

42 1. THAT THE PROPERTY IS LOCATED IN TERRITORY IN THE VICINITY OF A  
43 MILITARY HELIPORT.

44 2. IF THE STATE REAL ESTATE DEPARTMENT HAS BEEN PROVIDED THE REGISTRY  
45 OF INFORMATION DESCRIBED IN SECTION 28-8483.01, THAT THE STATE REAL ESTATE

1 DEPARTMENT MAINTAINS A REGISTRY OF INFORMATION, INCLUDING THE MAPS DEPICTING  
2 THE TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT PROVIDED BY THE  
3 MILITARY HELIPORT, PURSUANT TO SECTION 28-8483.01 AND, IF PROVIDED TO THE  
4 DEPARTMENT, THE MAP PREPARED BY THE MILITARY HELIPORT PURSUANT TO SUBSECTION  
5 B OF THIS SECTION.

6 3. IF THE STATE REAL ESTATE DEPARTMENT HAS BEEN PROVIDED THE REGISTRY  
7 OF INFORMATION DESCRIBED IN SECTION 28-8483.01, THAT THE INFORMATION IS  
8 AVAILABLE TO THE PUBLIC ON REQUEST.

9 B. EACH MILITARY HELIPORT MAY PROVIDE THE STATE REAL ESTATE DEPARTMENT  
10 AND EACH POLITICAL SUBDIVISION WITH TERRITORY IN THE VICINITY OF THE MILITARY  
11 HELIPORT WITH A MAP THAT IS IN ELECTRONIC FORM AND THAT IS EIGHT AND ONE-HALF  
12 INCHES BY ELEVEN INCHES IN SIZE SHOWING THE EXTERIOR BOUNDARIES OF EACH  
13 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT. THE STATE REAL ESTATE  
14 DEPARTMENT SHALL WORK CLOSELY WITH EACH MILITARY HELIPORT AND POLITICAL  
15 SUBDIVISIONS WITH TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AS  
16 NECESSARY TO CREATE A MAP THAT IS VISUALLY USEFUL IN DETERMINING WHETHER  
17 PROPERTY IS LOCATED IN OR OUTSIDE OF A TERRITORY IN THE VICINITY OF A  
18 MILITARY HELIPORT. IF THERE ARE CHANGES TO THE MAP, THE MILITARY HELIPORT  
19 SHALL NOTIFY THE STATE REAL ESTATE DEPARTMENT AND POLITICAL SUBDIVISIONS OF  
20 THE CHANGES AND SHALL PROVIDE A NEW MAP IN ELECTRONIC FORM. IF A NEW MAP IS  
21 PROVIDED, THE DEPARTMENT AND THE POLITICAL SUBDIVISIONS SHALL INCLUDE THE MAP  
22 IN THE REGISTRY OF INFORMATION MAINTAINED PURSUANT TO SECTION 28-8483.01.  
23 THE MAP SHALL BE INCLUDED IN PUBLIC REPORTS ISSUED PURSUANT TO SECTION  
24 32-2183 OR 32-2195.03, AND THE MAP SHALL BE AVAILABLE TO THE PUBLIC ON  
25 REQUEST.

26 C. FOR ANY LOT RESERVATION OR CONDITIONAL SALE THAT OCCURS BEFORE THE  
27 ISSUANCE OF A PUBLIC REPORT, THE DISCLOSURE STATEMENTS LISTED IN SUBSECTION A  
28 OF THIS SECTION SHALL BE INCLUDED WITHIN THE RESERVATION DOCUMENT OR  
29 CONDITIONAL SALES CONTRACT.

30 D. THIS SECTION DOES NOT REQUIRE THE AMENDMENT OR REISSUANCE OF ANY  
31 PUBLIC REPORT ISSUED ON OR BEFORE DECEMBER 31, 2006 OR THE AMENDMENT OR  
32 REISSUANCE OF ANY RESERVATION DOCUMENT OR CONDITIONAL SALES CONTRACT ACCEPTED  
33 ON OR BEFORE DECEMBER 31, 2006.

34 Sec. 13. Title 32, chapter 20, article 1, Arizona Revised Statutes, is  
35 amended by adding section 32-2113.01, to read:

36 32-2113.01. Recorded disclosure for territory in the vicinity  
37 of a military heliport

38 A. THE COMMISSIONER SHALL EXECUTE AND RECORD IN THE OFFICE OF THE  
39 COUNTY RECORDER IN EACH COUNTY IN THIS STATE THAT INCLUDES TERRITORY IN THE  
40 VICINITY OF A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 A DOCUMENT,  
41 APPLICABLE TO PROPERTY LOCATED WITHIN TERRITORY IN THE VICINITY OF A MILITARY  
42 HELIPORT, WITH THE FOLLOWING DISCLOSURE: "THIS PROPERTY IS LOCATED WITHIN  
43 TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AND MAY BE SUBJECT TO  
44 INCREASED NOISE AND ACCIDENT POTENTIAL."

1 B. THE ATTORNEY GENERAL SHALL PREPARE IN RECORDABLE FORM THE DOCUMENT  
2 THAT IS EXECUTED AND RECORDED BY THE COMMISSIONER PURSUANT TO THIS SECTION.

3 C. THE DOCUMENT THAT IS EXECUTED AND RECORDED BY THE COMMISSIONER  
4 SHALL INCLUDE A LEGAL DESCRIPTION OF THE TERRITORY IN THE VICINITY OF A  
5 MILITARY HELIPORT. THE MILITARY HELIPORT SHALL CAUSE THE LEGAL DESCRIPTION  
6 OF TERRITORY IN THE VICINITY OF THE MILITARY HELIPORT DEFINED IN SECTION  
7 28-8461 TO BE PREPARED AND SHALL PROVIDE THE LEGAL DESCRIPTION TO THE  
8 COMMISSIONER AND THE STATE LAND DEPARTMENT IN RECORDABLE FORM IN TWELVE POINT  
9 FONT ON EIGHT AND ONE-HALF INCH BY ELEVEN INCH PAPER.

10 D. THE STATE LAND DEPARTMENT SHALL PREPARE MAPS WITH THE LEGAL  
11 DESCRIPTIONS PURSUANT TO SECTION 37-102.

12 Sec. 14. Section 32-2181, Arizona Revised Statutes, is amended to  
13 read:

14 32-2181. Notice to commissioner of intention to subdivide  
15 lands; unlawful acting in concert; exceptions; deed  
16 restrictions; definition

17 A. Before offering subdivided lands for sale or lease, the subdivider  
18 shall notify the commissioner in writing of the subdivider's intention. The  
19 notice shall contain:

20 1. The name and address of the owner. If the holder of any ownership  
21 interest in the land is other than an individual, such as a corporation,  
22 partnership or trust, a statement naming the type of legal entity and listing  
23 the interest and the extent of any interest of each principal in the  
24 entity. For the purposes of this section, "principal" means any person or  
25 entity having a ten per cent or more financial interest or, if the legal  
26 entity is a trust, each beneficiary of the trust holding a ten per cent or  
27 more beneficial interest.

28 2. The name and address of the subdivider.

29 3. The legal description and area of the land.

30 4. A true statement of the condition of the title to the land,  
31 including all encumbrances on the land, and a statement of the provisions  
32 agreed to by the holder of any blanket encumbrance enabling a purchaser to  
33 acquire title to a lot or parcel free of the lien of the blanket encumbrance  
34 on completion of all payments and performance of all of the terms and  
35 provisions required to be made or performed by the purchaser under the real  
36 estate sales contract by which the purchaser has acquired the lot or  
37 parcel. The subdivider shall file copies of documents acceptable to the  
38 department containing these provisions with the commissioner before the sale  
39 of any subdivision lot or parcel subject to a blanket encumbrance.

40 5. The terms and conditions on which it is intended to dispose of the  
41 land, together with copies of any real estate sales contract, conveyance,  
42 lease, assignment or other instrument intended to be used, and any other  
43 information the owner or the owner's agent or subdivider desires to present.

44 6. A map of the subdivision that has been filed in the office of the  
45 county recorder in the county in which the subdivision is located.

1           7. A brief but comprehensive statement describing the land on and the  
2 locality in which the subdivision is located.

3           8. A statement of the provisions that have been made for permanent  
4 access and provisions, if any, for health department approved sewage and  
5 solid waste collection and disposal and public utilities in the proposed  
6 subdivision, including water, electricity, gas and telephone facilities.

7           9. A statement as to the location of the nearest public common and  
8 high schools available for the attendance of school age pupils residing on  
9 the subdivision property.

10          10. A statement of the use or uses for which the proposed subdivision  
11 will be offered.

12          11. A statement of the provisions, if any, limiting the use or  
13 occupancy of the parcels in the subdivision, together with copies of any  
14 restrictive covenants affecting all or part of the subdivision.

15          12. The name and business address of the principal broker selling or  
16 leasing, within this state, lots or parcels in the subdivision.

17          13. A true statement of the approximate amount of indebtedness that is  
18 a lien on the subdivision or any part of the subdivision and that was  
19 incurred to pay for the construction of any on-site or off-site improvement,  
20 or any community or recreational facility.

21          14. A true statement or reasonable estimate, if applicable, of the  
22 amount of any indebtedness that has been or is proposed to be incurred by an  
23 existing or proposed special district, entity, taxing area or assessment  
24 district, within the boundaries of which the subdivision, or any part of the  
25 subdivision, is located, and that is to pay for the construction or  
26 installation of any improvement or to furnish community or recreational  
27 facilities to the subdivision, and which amounts are to be obtained by ad  
28 valorem tax or assessment, or by a special assessment or tax upon the  
29 subdivision or any part of the subdivision.

30          15. A true statement as to the approximate amount of annual taxes,  
31 special assessments or fees to be paid by the buyer for the proposed annual  
32 maintenance of common facilities in the subdivision.

33          16. A statement of the provisions for easements for permanent access  
34 for irrigation water where applicable.

35          17. A true statement of assurances for the completion of off-site  
36 improvements, such as roads, utilities, community or recreational facilities  
37 and other improvements to be included in the offering or represented as being  
38 in the offering, and approval of the offering by the political subdivision  
39 with authority. This statement shall include a trust agreement or any other  
40 evidence of assurances for delivery of the improvements and a statement of  
41 the provisions, if any, for the continued maintenance of the improvements.

42          18. A true statement of the nature of any improvements to be installed  
43 by the subdivider, the estimated schedule for completion and the estimated  
44 costs related to the improvements that will be borne by purchasers of lots in  
45 the subdivision.

1       19. A true statement of the availability of sewage disposal facilities  
2 and other public utilities including water, electricity, gas and telephone  
3 facilities in the subdivision, the estimated schedule for their installation,  
4 and the estimated costs related to the facilities and utilities that will be  
5 borne by purchasers of lots in the subdivision.

6       20. A true statement as to whether all or any portion of the  
7 subdivision is located in an open range or area in which livestock may roam  
8 at large under the laws of this state and what provisions, if any, have been  
9 made for the fencing of the subdivision to preclude livestock from roaming  
10 within the subdivided lands.

11       21. If the subdivider is a subsidiary corporation, a true statement  
12 identifying the parent corporation and any of the following in which the  
13 parent or any of its subsidiaries is or has been involved within the past  
14 five years:

15       (a) Any subdivision in this state.

16       (b) Any subdivision, wherever located, for which registration is  
17 required pursuant to the federal interstate land sales full disclosure act.

18       (c) Any subdivision, wherever located, for which registration would  
19 have been required pursuant to the federal interstate land sales full  
20 disclosure act but for the exemption for subdivisions whose lots are all  
21 twenty acres or more in size.

22       22. A true statement identifying all other subdivisions, designated in  
23 paragraph 21 of this subsection, in which any of the following is or, within  
24 the last five years, has been directly or indirectly involved:

25       (a) The holder of any ownership interest in the land.

26       (b) The subdivider.

27       (c) Any principal or officer in the holder or subdivider.

28       23. A true statement as to whether all or any portion of the  
29 subdivision is located in territory in the vicinity of a military airport,  
30 **MILITARY HELIPORT** or ancillary military facility as defined in section  
31 28-8461, in territory in the vicinity of a public airport as defined in  
32 section 28-8486, on or after July 1, 2001, in a high noise or accident  
33 potential zone as defined in section 28-8461 or on or after July 1 of the  
34 year in which the subdivision becomes located in a high noise or accident  
35 potential zone. The statement required pursuant to this paragraph does not  
36 require the amendment or refiling of any notice filed before July 1, 2001 or  
37 before July 1 of the year in which the subdivision becomes located in a high  
38 noise or accident potential zone **OR IN TERRITORY IN THE VICINITY OF A**  
39 **MILITARY HELIPORT.**

40       24. If the subdivision is a conversion from multifamily rental to  
41 condominiums as defined in section 33-1202, a true statement as to the  
42 following:

43       (a) That the property is a conversion from multifamily rental to  
44 condominiums.

45       (b) The date original construction was completed.



25. Other information and documents and certifications as the commissioner may reasonably require.

B. The commissioner, on application, may grant a subdivider of lots or parcels within a subdivision for which a public report was previously issued by the commissioner an exemption from all or part of the notification requirements of subsection A of this section. The subdivider shall file a statement with the commissioner indicating the change of ownership in the lots or parcels together with any material changes occurring subsequent to the original approval of the subdivision within which the lots or parcels are located. The statement shall further refer to the original approval by the commissioner.

C. If the subdivision is within a groundwater active management area, as defined in section 45-402, the subdivider shall accompany the notice with a certificate of assured water supply issued by the director of water resources along with proof that all applicable fees have been paid pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576. If the subdivider has submitted a certificate of assured water supply to a city, town or county prior to approval of the plat by the city, town or county and this has been noted on the face of the plat, the submission constitutes compliance with this subsection if the subdivider provides proof to the commissioner that all applicable fees have been paid pursuant to sections 48-3772 and 48-3774.01.

D. It is unlawful for a person or group of persons acting in concert to attempt to avoid this article by acting in concert to divide a parcel of land or sell subdivision lots by using a series of owners or conveyances or by any other method that ultimately results in the division of the lands into a subdivision or the sale of subdivided land. The plan or offering is subject to this article. Unlawful acting in concert pursuant to this subsection with respect to the sale or lease of subdivision lots requires proof that the real estate licensee or other licensed professional knew or with the exercise of reasonable diligence should have known that property which the licensee listed or for which the licensee acted in any capacity as agent was subdivided land subject to this article.

E. A creation of six or more lots, parcels or fractional interests in improved or unimproved land, lots or parcels of any size is subject to ~~the provisions of~~ this article except when:

1. Each of the lots, parcels or fractional interests represents, on a partition basis, thirty-six acres or more in area of land located in this state including to the centerline of dedicated roads or easements, if any, contiguous to the land in which the interests are held.

2. The lots, parcels or fractional interests are the result of a foreclosure sale, the exercise by a trustee under a deed of trust of a power

1 of sale or the grant of a deed in lieu of foreclosure. This paragraph does  
2 not allow circumvention of the requirements of this article.

3 3. The lots, parcels or fractional interests are created by a valid  
4 order or decree of a court pursuant to and through compliance with title 12,  
5 chapter 8, article 7 or by operation of law. This paragraph does not allow  
6 circumvention of the requirements of this article.

7 4. The lots, parcels or fractional interests consist of interests in  
8 any oil, gas or mineral lease, permit, claim or right therein and such  
9 interests are regulated as securities by the United States or by this state.

10 5. The lots, parcels or fractional interests are registered as  
11 securities under the laws of the United States or the laws of this state or  
12 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

13 6. The commissioner by special order exempts offerings or dispositions  
14 of any lots, parcels or fractional interests from compliance with this  
15 article on written petition and on a showing satisfactory to the commissioner  
16 that compliance is not essential to the public interest or for the protection  
17 of buyers.

18 F. In areas outside of groundwater active management areas established  
19 pursuant to title 45, chapter 2, article 2, if the director of water  
20 resources, pursuant to section 45-108, reports an inadequate on-site supply  
21 of water to meet the needs projected by the developer or if no water is  
22 available, the state real estate commissioner shall require that all  
23 promotional material and contracts for the sale of lots in subdivisions  
24 approved by the commissioner adequately display the director of water  
25 resources' report or the developer's brief summary of the report as approved  
26 by the commissioner on the proposed water supply for the subdivision.

27 G. The commissioner may require the subdivider to supplement the  
28 notice of intention to subdivide lands and may require the filing of periodic  
29 reports to update the information contained in the original notice of  
30 intention to subdivide lands.

31 H. The commissioner may authorize the subdivider to file as the notice  
32 of intention to subdivide lands, in lieu of some or all of the requirements  
33 of subsection A of this section, a copy of the statement of record filed with  
34 respect to the subdivision pursuant to the federal interstate land sales full  
35 disclosure act if the statement complies with the requirements of the act and  
36 the regulations pertinent to the act.

37 I. Neither a real estate sales contract, conveyance, lease, assignment  
38 or other instrument to transfer any interest in subdivided land nor any  
39 covenant or restriction affecting real property shall contain any provision  
40 limiting the right of any party to appear or testify in support of or  
41 opposition to zoning changes, building permits or any other official acts  
42 affecting real property before a governmental body or official considering  
43 zoning changes, building permits or any other official acts affecting real  
44 property, whether the property is located within or outside of the boundaries  
45 of the subdivision. All contractual provisions that conflict with this

1 subsection are declared to be contrary to public policy. Nothing contained  
 2 in this subsection shall prohibit private restrictions on the use of any real  
 3 property.

4 J. Before offering subdivided lands for lease or sale the subdivider  
 5 who makes any promises through any form of advertising media that the  
 6 subdivided lands will be exclusively a retirement community or one that is  
 7 limited to the residency of adults or senior citizens shall include the  
 8 promises in the deed restrictions affecting any interest in real property  
 9 within the subdivided lands.

10 Sec. 15. Section 32-2183, Arizona Revised Statutes, is amended to  
 11 read:

12 32-2183. Subdivision public reports; denial of issuance;  
 13 unlawful sales; voidable sale or lease; order  
 14 prohibiting sale or lease; investigations; hearings;  
 15 summary orders

16 A. Upon examination of a subdivision, the commissioner, unless there  
 17 are grounds for denial, shall issue to the subdivider a public report  
 18 authorizing the sale or lease in this state of the lots, parcels or  
 19 fractional interests within the subdivision. The report shall contain the  
 20 data obtained in accordance with section 32-2181 and any other information  
 21 which the commissioner determines is necessary to implement the purposes of  
 22 this article. If any of the lots, parcels or fractional interests within the  
 23 subdivision are located within territory in the vicinity of a military  
 24 airport, **MILITARY HELIPORT** or ancillary military facility as defined in  
 25 section 28-8461 or under a military training route as delineated in the  
 26 military training route map prepared pursuant to section 37-102, the report  
 27 shall include, in bold twelve point font block letters on the first page of  
 28 the report, the statements required pursuant to section 28-8484, subsection  
 29 A, **SECTION 28-8484.01, SUBSECTION A** or section 32-2183.05 and, if the  
 30 department has been provided a map prepared pursuant to section 28-8484,  
 31 subsection B, **SECTION 28-8484.01, SUBSECTION B** or section 37-102, the report  
 32 shall include a copy of the map. The military airport **AND MILITARY HELIPORT**  
 33 report requirements do not require the amendment or reissuance of any public  
 34 report issued on or before December 31, 2001 or on or before December 31 of  
 35 the year in which the lots, parcels or fractional interests within a  
 36 subdivision become territory in the vicinity of a military airport, **MILITARY**  
 37 **HELIPORT** or ancillary military facility. The military training route report  
 38 requirements do not require the amendment or reissuance of any public report  
 39 issued on or before December 31, 2004. The commissioner shall require the  
 40 subdivider to reproduce the report, make the report available to each  
 41 prospective customer and furnish each buyer or lessee with a copy before the  
 42 buyer or lessee signs any offer to purchase or lease, taking a receipt  
 43 therefor.

1           B. Notwithstanding subsection A of this section, a subdivider may  
2 elect to prepare a final public report for use in the sale of improved lots  
3 as defined in section 32-2101, as follows:

4           1. The subdivider shall prepare the public report and provide a copy  
5 of the report to the commissioner with the submission of the notification  
6 required by sections 32-2181 and 32-2184 and shall comply with all other  
7 requirements of this article.

8           2. An initial filing fee of five hundred dollars or an amended filing  
9 fee of two hundred fifty dollars shall accompany the notification required by  
10 paragraph 1 of this subsection.

11           3. The department shall assign a registration number to each  
12 notification and public report submitted pursuant to this subsection and  
13 shall maintain a database of all of these submissions. The subdivider shall  
14 place the number on each public report.

15           4. The department shall determine within fifteen business days after  
16 the receipt of the notification and public report whether the notification  
17 and public report are administratively complete. The commissioner either may  
18 issue a certification that the notification and public report are  
19 administratively complete or may deny issuance of the certification if it  
20 appears that the application or project is not in compliance with all legal  
21 requirements, that the applicant has a background of violations of state or  
22 federal law or that the applicant or project presents an unnecessary risk of  
23 harm to the public.

24           5. A subdivider may commence sales or leasing activities as permitted  
25 under this article after obtaining a certificate of administrative  
26 completeness from the commissioner.

27           6. Before or after the commissioner issues a certificate of  
28 administrative completeness, the department may examine any public report,  
29 subdivision or applicant that has applied for or received the  
30 certificate. If the commissioner determines that the subdivider or  
31 subdivision is not in compliance with any requirement of state law or that  
32 grounds exist under this chapter to suspend, deny or revoke a public report,  
33 the commissioner may commence an administrative action under section 32-2154  
34 or 32-2157. If the subdivider immediately corrects the deficiency and comes  
35 into full compliance with state law, the commissioner shall vacate any action  
36 that the commissioner may have commenced pursuant to section 32-2154 or  
37 32-2157.

38           7. The department shall provide forms and guidelines for the  
39 submission of the notification and public report pursuant to this section.

40           C. The commissioner may suspend, revoke or deny issuance of a public  
41 report on any of the following grounds:

42           1. Failure to comply with this article or the rules of the  
43 commissioner pertaining to this article.

44           2. The sale or lease would constitute misrepresentation to or deceit  
45 or fraud of the purchasers or lessees.

1           3. Inability to deliver title or other interest contracted for.

2           4. Inability to demonstrate that adequate financial or other  
3 arrangements acceptable to the commissioner have been made for completion of  
4 all streets, sewers, electric, gas and water utilities, drainage and flood  
5 control facilities, community and recreational facilities and other  
6 improvements included in the offering.

7           5. Failure to make a showing that the lots, parcels or fractional  
8 interests can be used for the purpose for which they are offered.

9           6. The owner, agent, subdivider, officer, director or partner,  
10 subdivider trust beneficiary holding ten per cent or more direct or indirect  
11 beneficial interest or, if a corporation, any stockholder owning ten per cent  
12 or more of the stock in the corporation has:

13           (a) Been convicted of a felony or misdemeanor involving fraud or  
14 dishonesty or involving conduct of any business or a transaction in real  
15 estate, cemetery property, time-share intervals or membership camping  
16 campgrounds or contracts.

17           (b) Been permanently or temporarily enjoined by order, judgment or  
18 decree from engaging in or continuing any conduct or practice in connection  
19 with the sale or purchase of real estate or cemetery property, time-share  
20 intervals, membership camping contracts or campgrounds, or securities or  
21 involving consumer fraud or the racketeering laws of this state.

22           (c) Had an administrative order entered against him by a real estate  
23 regulatory agency or security regulatory agency.

24           (d) Had an adverse decision or judgment entered against him involving  
25 fraud or dishonesty or involving the conduct of any business or transaction  
26 in real estate, cemetery property, time-share intervals or membership camping  
27 campgrounds or contracts.

28           (e) Disregarded or violated this chapter or the rules of the  
29 commissioner pertaining to this chapter.

30           (f) Controlled an entity to which subdivision (b), (c), (d) or (e)  
31 applies.

32           7. Procurement or an attempt to procure a public report by fraud,  
33 misrepresentation or deceit or by filing an application for a public report  
34 that is materially false or misleading.

35           8. Failure of the declaration for a condominium created pursuant to  
36 title 33, chapter 9, article 2 to comply with the requirements of section  
37 33-1215 or failure of the plat for the condominium to comply with the  
38 requirements of section 33-1219. The commissioner may require an applicant  
39 for a public report to submit a notarized statement signed by the subdivider  
40 or an engineer or attorney licensed to practice in this state certifying that  
41 the condominium plat and declaration of condominium are in compliance with  
42 the requirements of sections 33-1215 and 33-1219. If the notarized statement  
43 is provided, the commissioner is entitled to rely on this statement.

44           9. Failure of any blanket encumbrance or valid supplementary agreement  
45 executed by the holder of the blanket encumbrance to contain provisions that

enable the purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance, on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the commissioner containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

10. Failure to demonstrate permanent access to the subdivision lots or parcels.

11. The use of the lots presents an unreasonable health risk.

D. It is unlawful for a subdivider to sell any lot in a subdivision unless one of the following occurs:

1. All proposed or promised subdivision improvements are completed.

2. The completion of all proposed or promised subdivision improvements is assured by financial arrangements acceptable to the commissioner. The financial arrangements may be made in phases for common community and recreation facilities required by a municipality or county as a stipulation for approval of a plan for a master planned community.

3. The municipal or county government agrees to prohibit occupancy and the subdivider agrees not to close escrow for lots in the subdivision until all proposed or promised subdivision improvements are completed.

4. The municipal or county government enters into an assurance agreement with any trustee not to convey lots until improvements are completed within the portion of the subdivision containing these lots, if the improvements can be used and maintained separately from the improvements required for the entire subdivision plat. The agreement shall be recorded in the county in which the subdivision is located.

E. If the subdivision is within a groundwater active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless the subdivider has been issued a certificate of assured water supply by the director of water resources and has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576.

F. A subdivider shall not sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of the date of

1 execution of the purchase or lease agreement by the purchaser or lessee. In  
2 any rescission action, the prevailing party is entitled to reasonable  
3 attorney fees as determined by the court.

4 G. Any applicant objecting to the denial of a public report, within  
5 thirty days after receipt of the order of denial, may file a written request  
6 for a hearing. The commissioner shall hold the hearing within twenty days  
7 after receipt of the request for a hearing unless the party requesting the  
8 hearing has requested a postponement. If the hearing is not held within  
9 twenty days after a request for a hearing is received, plus the period of any  
10 postponement, or if a proposed decision is not rendered within forty-five  
11 days after submission, the order of denial shall be rescinded and a public  
12 report issued.

13 H. On the commissioner's own motion, or when the commissioner has  
14 received a complaint and has satisfactory evidence that the subdivider or the  
15 subdivider's agent is violating this article or the rules of the commissioner  
16 or has engaged in any unlawful practice as defined in section 44-1522 with  
17 respect to the sale of subdivided lands or deviated from the provisions of  
18 the public report, the commissioner may investigate the subdivision project  
19 and examine the books and records of the subdivider. For the purpose of  
20 examination, the subdivider shall keep and maintain records of all sales  
21 transactions and funds received by the subdivider pursuant to the sales  
22 transactions and shall make them accessible to the commissioner upon  
23 reasonable notice and demand.

24 I. On the commissioner's own motion, or when the commissioner has  
25 received a complaint and has satisfactory evidence that any person has  
26 violated this article or the rules of the commissioner or has engaged in any  
27 unlawful practice as defined in section 44-1522 with respect to the sale of  
28 subdivided lands or deviated from the provisions of the public report or  
29 special order of exemption, or has been indicted for fraud or against whom an  
30 information for fraud has been filed or has been convicted of a felony,  
31 before or after the commissioner issues the public report as provided in  
32 subsection A of this section, the commissioner may conduct an investigation  
33 of the matter, issue a summary order as provided in section 32-2157, or hold  
34 a public hearing and, after the hearing, may issue the order or orders the  
35 commissioner deems necessary to protect the public interest and ensure  
36 compliance with the law, rules or public report or the commissioner may bring  
37 action in any court of competent jurisdiction against the person to enjoin  
38 the person from continuing the violation or engaging in or doing any act or  
39 acts in furtherance of the violation. The court may make orders or  
40 judgments, including the appointment of a receiver, necessary to prevent the  
41 use or employment by a person of any unlawful practices, or which may be  
42 necessary to restore to any person in interest any monies or property, real  
43 or personal, that may have been acquired by means of any practice in this  
44 article declared to be unlawful.

J. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that the person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of the person or for a writ of ne exeat, or both.

K. The court, on receipt of an application for the appointment of a receiver or for a writ of ne exeat, or both, shall examine the verified application of the commissioner and other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ of ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ, or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require notice be given as the court deems satisfactory.

L. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served on the person engaged in or engaging in a practice declared to be unlawful under this article by delivering the order to the last address of the person that is on file with the state real estate department. The order shall inform the person that the person has the right to request a hearing within ten days of the date of the order and, if requested, the hearing shall be held within thirty days from the date of the order.

Sec. 16. Section 32-2195, Arizona Revised Statutes, is amended to read:

32-2195. Notice to commissioner of intention before offering for sale or lease of unsubdivided land; definition

A. Prior to the offering for sale or lease of unsubdivided land the owner or agent shall notify the commissioner in writing of the owner's or agent's intention to offer such parcels for sale or lease.

B. The notice required by this section shall contain the following information:

1. The name and address of the owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of such interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. The name and address of the agent.

3. The legal description and area of the lands.

4. A true statement of the condition of the title to the land, including all encumbrances thereon.



1           5. A true statement of the terms and conditions under which such lands  
2 are to be offered to the public.

3           6. A statement of the use or uses for which the land will be offered  
4 or a statement that it is offered for no specific use.

5           7. A true statement of the provisions made for permanent access.

6           8. A true statement setting out the availability of water or lack  
7 thereof.

8           9. A true statement of the availability to the land of sewage disposal  
9 facilities and other public utilities including water, electricity, gas and  
10 telephone facilities.

11          10. A true statement or reasonable estimate, if applicable, of the  
12 amount of any indebtedness which has been or is proposed to be incurred by an  
13 existing or proposed special district, taxing area or assessment district  
14 within the boundaries of which the unsubdivided lands are located, and which  
15 is to pay for the construction or installation of any improvements to that  
16 land.

17          11. A true statement as to whether all or any portion of the  
18 unsubdivided land is located in an open range or area in which livestock may  
19 roam at large under the laws of this state and what provisions, if any, have  
20 been made for the fencing of the unsubdivided land to preclude livestock from  
21 roaming within such land.

22          12. If the owner or agent is a subsidiary corporation, a true statement  
23 identifying the parent corporation and any of the following in which the  
24 parent or any of its subsidiaries are or have been involved within the past  
25 five years:

26           (a) Any subdivision in this state.

27           (b) Any subdivision, wherever located, for which registration is  
28 required pursuant to the federal interstate land sales full disclosure act.

29           (c) Any subdivision, wherever located, for which registration would  
30 have been required pursuant to the federal interstate land sales full  
31 disclosure act but for the exemption for subdivisions whose lots are five  
32 acres or more in size.

33          13. A true statement identifying all other subdivisions, designated in  
34 paragraph 12, in which any of the following are or, within the last five  
35 years, have been directly or indirectly involved:

36           (a) The holder of any ownership interest in the land.

37           (b) The agent.

38           (c) Any principal or officer in the holder.

39          14. A true statement as to whether all or any portion of the  
40 unsubdivided land is located in territory in the vicinity of a military  
41 airport, **MILITARY HELIPORT** or ancillary military facility as defined in  
42 section 28-8461, in territory in the vicinity of a public airport as defined  
43 in section 28-8486, on or after July 1, 2001, in a high noise or accident  
44 potential zone as defined in section 28-8461 or on or after July 1 of the  
45 year in which the land becomes located in a high noise or accident potential

1 zone. The statement required pursuant to this paragraph does not require the  
2 amendment or refiling of any notice filed before July 1, 2001 or before July  
3 1 of the year in which the land becomes located in a high noise or accident  
4 potential zone OR IN TERRITORY IN THE VICINITY OF A MILITARY HELIPORT.

5 15. Such other information and such other documents and certifications  
6 as the commissioner may reasonably require for the protection of the public.

7 C. Copies of original promotional and advertising material to be used  
8 with such offering shall be attached to the notice.

9 D. It shall be unlawful for any owner or agent to make any offerings  
10 regulated by this section without the written authorization of the  
11 commissioner. The commissioner shall issue a public report thereon and  
12 require a copy of the public report to be furnished to each offeree at the  
13 time of such offering.

14 E. It shall be unlawful to offer any lands regulated by this article  
15 without provisions having been made for permanent access over terrain on  
16 which roads could be established for conventional motor vehicles unless such  
17 provision is waived by the commissioner.

18 F. Satisfactory proof or evidence that access meets the requirements  
19 of subsection E of this section shall be furnished to the department in a  
20 report by a licensed engineer or land surveyor of this state.

21 G. The commissioner may terminate any authorization issued upon the  
22 grounds and in the manner set out in section 32-2183.

23 H. If the director of water resources has issued a water availability  
24 report, the state real estate commissioner shall require that all promotional  
25 material and contracts for the sale of such unsubdivided lands adequately  
26 display the director of water resources' report or a brief summary of the  
27 results prepared by the developer and approved by the real estate  
28 commissioner. If no report has been prepared by the director of water  
29 resources and the availability of water is unknown, the real estate  
30 commissioner shall require that all promotional material and contracts  
31 adequately display that no report has been prepared and that the availability  
32 of water is unknown.

33 I. Neither any real estate sales contract, conveyance, lease,  
34 assignment or other instrument to transfer any interest in unsubdivided land  
35 nor any covenant or restriction affecting real property shall contain any  
36 provision limiting the right of any party to appear or testify in support of  
37 or opposition to zoning changes, building permits or any other official acts  
38 affecting real property before a governmental body or official considering  
39 zoning changes, building permits or any other official acts affecting real  
40 property, whether such property is located within or outside of the  
41 boundaries of the unsubdivided land. All contractual provisions which  
42 conflict with this subsection are declared to be contrary to public policy.  
43 Nothing contained in this subsection shall prohibit private restrictions on  
44 the use of any real property.

1           Sec. 17. Section 32-2195.03, Arizona Revised Statutes, is amended to  
2 read:

3           32-2195.03. Unsubdivided land reports; denial of issuance;  
4                           order prohibiting sale or lease; investigations;  
5                           hearings; summary orders

6           A. Upon examination of unsubdivided land, the commissioner, unless  
7 there are grounds for denial, shall prepare and issue to the owner or agent a  
8 public report authorizing the sale or lease of the unsubdivided lands in this  
9 state. The report shall contain the data obtained in accordance with section  
10 32-2195 and any other information which the commissioner determines is  
11 necessary to implement the purposes of this article. If any of the  
12 unsubdivided land is located within territory in the vicinity of a military  
13 airport, **MILITARY HELIPORT** or ancillary military facility as defined in  
14 section 28-8461, the report shall include, in bold twelve point font block  
15 letters on the first page of the report, the statements required pursuant to  
16 section 28-8484, subsection A **OR SECTION 28-8484.01, SUBSECTION A** and, if the  
17 department has been provided a map prepared pursuant to section 28-8484,  
18 subsection B **OR SECTION 28-8484.01, SUBSECTION B**, the report shall include a  
19 copy of the map. These report requirements do not require the amendment or  
20 reissuance of any public report issued on or before December 31, 2001 or on  
21 or after December 31 of the year in which the unsubdivided land becomes  
22 territory in the vicinity of a military airport, **MILITARY HELIPORT** or  
23 ancillary military facility. The commissioner shall require the owner or  
24 agent to reproduce the report and furnish each prospective buyer with a copy  
25 before the buyer signs an offer to purchase, taking a receipt therefor.

26           B. Notwithstanding any provision of subsection A of this section, an  
27 owner may prepare a final public report for use in the sale of unsubdivided  
28 lands as defined in section 32-2101, as follows:

29           1. The owner shall prepare the public report and provide a copy of the  
30 report to the commissioner with the submission of the notification required  
31 by sections 32-2195 and 32-2195.10 and shall comply with all other  
32 requirements of this article.

33           2. An initial filing fee of five hundred dollars or an amended filing  
34 fee of two hundred fifty dollars shall accompany the notification required by  
35 paragraph 1 of this subsection.

36           3. The department shall assign a registration number to each  
37 notification and public report submitted pursuant to this subsection and  
38 shall maintain a database of all of these submissions. The owner shall place  
39 the number on each public report.

40           4. The department shall determine within fifteen business days after  
41 the receipt of the notification and public report whether the notification  
42 and public report are administratively complete. The commissioner may either  
43 issue a certification that the notification and public report are  
44 administratively complete or may deny issuance of the certification if it  
45 appears that the application or project is not in compliance with all legal

1 requirements, that the applicant has a background of violations of state or  
2 federal law or that the applicant or project presents an unnecessary risk of  
3 harm to the public.

4 5. An owner may commence sales or leasing activities as permitted  
5 under this article after obtaining a certificate of administrative  
6 completeness from the commissioner.

7 6. Before or after the commissioner issues a certificate of  
8 administrative completeness, the department may examine any public report,  
9 development or applicant that has applied for or received the certificate. If  
10 the commissioner determines that the owner or development is not in  
11 compliance with any requirement of state law or that grounds exist under this  
12 chapter to suspend, deny or revoke a public report, the commissioner may  
13 commence an administrative action under section 32-2154 or 32-2157. If the  
14 owner immediately corrects the deficiency and comes into full compliance with  
15 state law, the commissioner shall vacate any action ~~that he may have~~  
16 commenced pursuant to section 32-2154 or 32-2157.

17 7. The department shall provide forms and guidelines for the  
18 submission of the notification and public report pursuant to this section.

19 C. The commissioner may deny issuance of a public report on any of the  
20 following grounds:

21 1. Failure to comply with any of the provisions of this article or the  
22 rules of the commissioner pertaining to this article.

23 2. The sale or lease would constitute misrepresentation to or deceit  
24 or fraud of the purchasers or lessees.

25 3. Inability to deliver title or other interest contracted for.

26 4. Inability to demonstrate that adequate financial or other  
27 arrangements acceptable to the commissioner have been made for installation  
28 of all streets, sewers, electric, gas and water utilities, drainage, flood  
29 control and other similar improvements included in the offering.

30 5. Failure to make a showing that the parcels can be used for the  
31 purpose for which they are offered.

32 6. Failure to provide in the contract or other writing the use or  
33 uses, if any, for which the parcels are offered, together with any covenants  
34 or conditions relative to the parcel.

35 7. Failure to demonstrate that adequate financial arrangements have  
36 been made for any guaranty or warranty included in the offering.

37 8. The owner or agent, officer, director or partner or trust  
38 beneficiary holding a ten per cent or more beneficial interest, or, if a  
39 corporation, any stockholder owning ten per cent or more of the stock in the  
40 corporation has:

41 (a) Been convicted of a felony or misdemeanor involving fraud or  
42 dishonesty or involving conduct of any business or a transaction in real  
43 estate, cemetery property, time-share intervals or membership camping  
44 campgrounds or contracts.

(b) Been permanently or temporarily enjoined by order, judgment or decree from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate or cemetery property, time-share intervals, membership camping contracts or campgrounds, or securities or involving consumer fraud or the racketeering laws of this state.

(c) Had an administrative order entered against him by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against him involving fraud or dishonesty or involving the conduct of any business in or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

(e) Disregarded or violated any of the provisions of this chapter or the rules of the commissioner pertaining to this chapter.

(f) Participated in, operated or held an interest in any entity to which subdivision (b), (c), (d) or (e) applies.

D. No owner or agent may sell or lease or offer for sale or lease unsubdivided lands without first obtaining a public report from the commissioner. Any sale or lease of unsubdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void the transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any avoidance action the prevailing party is entitled to reasonable attorney fees as determined by the court.

E. Any applicant objecting to the denial of a public report, within thirty days after receipt of the order of denial, may file a written request for a hearing. The commissioner shall hold the hearing within twenty days after receipt of the request for a hearing unless the party requesting the hearing requests a postponement. If the hearing is not held within twenty days after a request for a hearing is received plus the period of any postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that the owner or agent is violating any provision set forth in this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of unsubdivided lands or deviated from the provisions of the public report, the commissioner may investigate the subdivision project and examine the books and records of the owner or agent. For the purpose of examination, the owner or agent shall keep and maintain records of all sales transactions and funds received by the owner or agent pursuant to the sales transactions and shall make them accessible to the commissioner upon reasonable notice and demand.

G. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that grounds exist as

1 provided in subsection C of this section or that any person has engaged in  
2 any unlawful practice as defined in section 44-1522 with respect to the sale  
3 of unsubdivided lands or deviated from the provisions of the public report,  
4 the commissioner may conduct an investigation of the matter, issue a summary  
5 order as provided in section 32-2157, or hold a public hearing and, after the  
6 hearing, may issue the order or orders the commissioner deems necessary to  
7 protect the public interest and ensure compliance with the law, rules or  
8 public report. If, after the hearing, the violation of the law, rules or  
9 public report continues, the commissioner may bring an action in any court of  
10 competent jurisdiction against the person to enjoin the person from  
11 continuing the violation or engaging in or doing any act or acts in  
12 furtherance of the violation.

13 Sec. 18. Section 37-102, Arizona Revised Statutes, is amended to read:

14 37-102. State land department; powers and duties

15 A. The state land department shall administer all laws relating to  
16 lands owned by, belonging to and under the control of the state.

17 B. The department shall have charge and control of all lands owned by  
18 the state, and timber, stone, gravel and other products of such lands, except  
19 lands under the specific use and control of state institutions and the  
20 products of such lands.

21 C. The department, in the name of the state, may commence, prosecute  
22 and defend all actions and proceedings to protect the interest of the state  
23 in lands within the state or the proceeds thereof. Actions shall be  
24 commenced and prosecuted at the request of the department by the attorney  
25 general, a county attorney or a special counsel under the direction of the  
26 attorney general.

27 D. The department shall be the official representative of the state in  
28 any communication between the state and the United States government in all  
29 matters respecting state lands or any interest of the state in or to the  
30 public lands within the state.

31 E. The summons in any action against the state respecting any lands of  
32 the state or the products of such lands and all notices concerning such lands  
33 or products shall be served upon the commissioner. Summonses, warrants or  
34 legal notices served on behalf of the department may be served by the  
35 commissioner or the commissioner's deputy, or by the sheriff or a constable  
36 of any county of the state.

37 F. The department shall maintain as a public record in each of its  
38 offices a public docket and index of all matters before the department which  
39 may be subject to appeal to the board of appeals or to the courts and all  
40 sale, exchange and lease transactions subject to bidding by the public. The  
41 department shall list a matter on the public docket immediately after an  
42 application or other request for department action is received by the  
43 department. The department shall include in the public docket every formal  
44 action and decision affecting each matter in question. The department shall

1 establish by rule a means by which any person may obtain a copy of the public  
2 docket at the current copying cost.

3 G. The department shall reappraise or update its original appraisal of  
4 property to be leased, exchanged or sold if the board of appeals' approval of  
5 the lease or sale occurred more than one hundred eighty days before the  
6 auction.

7 H. The state land department shall:

8 1. Prepare maps of the ancillary military facilities described in  
9 section 28-8461, paragraph 7, subdivisions (b) and (c).

10 2. Make a map of the ancillary military facility described in section  
11 28-8461, paragraph 7, subdivision (a) available to the public in printed or  
12 electronic format and provide the map in printed or electronic format to the  
13 state real estate department.

14 3. MAKE A MAP OF TERRITORY IN THE VICINITY OF A MILITARY HELIPORT AS  
15 DEFINED IN SECTION 28-8461.

16 I. The state land department shall provide each map and the legal  
17 description of the boundaries of TERRITORY IN THE VICINITY OF A MILITARY  
18 HELIPORT AND OF each ancillary military facility described in section  
19 28-8461, paragraph 7 in electronic format to the state real estate  
20 department. Each map prepared by the state land department pursuant to this  
21 section shall:

22 1. Describe EITHER:

23 (a) The ancillary military facility, the territory in the vicinity of  
24 the ancillary military facility and the high noise and accident potential  
25 zone, accident potential zone one and accident potential zone two associated  
26 with the ancillary military facility.

27 (b) THE MILITARY HELIPORT AND THE TERRITORY IN THE VICINITY OF THE  
28 MILITARY HELIPORT.

29 2. Be submitted to the county in which the ancillary military facility  
30 is located.

31 3. Be made available in printed or electronic format to the public at  
32 the state land department and at the state real estate department.

33 J. The state land department shall prepare a military training route  
34 map. The map shall contain military training route numbers in this state  
35 that are used by various United States armed forces. The map shall be dated.

36 K. When preparing the military training route map, the state land  
37 department shall use information contained in the most current department of  
38 defense publication that is entitled area planning military training routes  
39 for North and South America.

40 L. The military training route map shall be made available in printed  
41 or electronic format to the public at the state land department and at the  
42 state real estate department.

43 M. Within ninety days after the department is notified of a change of  
44 a military training route in this state, the department shall prepare a  
45 revised military training route map. The map shall be dated and contain a

1 statement that the map supersedes all previously dated maps. The state land  
2 department shall send the revised map to the state real estate department  
3 electronically and shall also send an accompanying letter specifying the  
4 military training route changes. The state land department shall send the  
5 revised map and an accompanying letter specifying the military training route  
6 changes to the municipalities affected by the changes and to all counties.

7 N. The department shall submit the military training route map  
8 prepared pursuant to this section to the counties in either an electronic or  
9 a printed format. The format shall be determined by the receiving county.

10 O. The state land department shall provide the legal description of  
11 the boundaries of the military training routes as delineated in the military  
12 training route map to the state real estate department in electronic format.

13 P. ~~Within ninety days after the effective date of this amendment to~~  
14 ~~this section,~~ The state land department shall prepare a military restricted  
15 airspace map. The map shall contain military restricted airspace in this  
16 state that is used by various United States armed forces. The map shall be  
17 dated.

18 Q. When preparing the military restricted airspace map, the state land  
19 department shall use information contained in the most current department of  
20 transportation publication that is entitled "aeronautical chart".

21 R. The military restricted airspace map shall be made available in  
22 printed or electronic format to the public at the state land department and  
23 at the state real estate department.

24 S. Within ninety days after the department is notified of a change of  
25 military restricted airspace in this state, the department shall prepare a  
26 revised military restricted airspace map. The map shall be dated and contain  
27 a statement that the map supersedes all previously dated maps. The state  
28 land department shall send the revised map to the state real estate  
29 department electronically and shall also send an accompanying letter  
30 specifying the military restricted airspace changes. The state land  
31 department shall send the revised map and an accompanying letter specifying  
32 the military restricted airspace changes to the municipalities affected by  
33 the changes and to all counties.

34 T. The department shall submit the military restricted airspace map  
35 prepared pursuant to this section to the counties in either an electronic or  
36 a printed format. The format shall be determined by the receiving county.

37 U. The state land department shall provide the legal description of  
38 the boundaries of the military restricted airspace as delineated in the  
39 military restricted airspace map to the state real estate department in  
40 electronic format.

41 Sec. 19. Section 41-1512, Arizona Revised Statutes, is amended to  
42 read:

43 41-1512. Military affairs commission; definition

44 A. The military affairs commission is established. Through December  
45 31, 2005, the commission membership consists of:



1           1. Thirteen members who are appointed by the governor and who serve at  
2 the pleasure of the governor.

3           2. One member who is appointed by the president of the senate and who  
4 serves at the pleasure of the president of the senate.

5           3. One member who is appointed by the speaker of the house of  
6 representatives and who serves at the pleasure of the speaker of the house of  
7 representatives.

8           B. From and after December 31, 2005, the commission membership  
9 consists of the following members:

10          1. Three members who are appointed by the president of the senate, who  
11 serve at the pleasure of the president of the senate and who include the  
12 following:

13           (a) One member who is knowledgeable in military affairs and who  
14 represents the long-term interests of a military installation.

15           (b) One member who represents private property interests in the  
16 territory in the vicinity as defined in section 28-8461.

17           (c) One member who represents the interests of a city, town or county.

18          2. Three members who are appointed by the speaker of the house of  
19 representatives, who serve at the pleasure of the speaker of the house of  
20 representatives and who include the following:

21           (a) One member who is knowledgeable in military affairs and who  
22 represents the long-term interests of a military installation.

23           (b) One member who represents private property interests in the  
24 territory in the vicinity as defined in section 28-8461.

25           (c) One member who represents the interests of a city, town or county.

26          3. Nine members who are appointed by the governor, who serve at the  
27 pleasure of the governor and who include the following:

28           (a) Three members who are knowledgeable in military affairs and who  
29 represent the long-term interests of a military installation.

30           (b) Three members who represent private property interests in the  
31 territory in the vicinity as defined in section 28-8461.

32           (c) Three members who represent the interests of a city, town or  
33 county.

34          C. The military affairs commission shall have geographic diversity in  
35 its membership.

36          D. The commission shall:

37           1. Meet on a regular basis with the governor, the president of the  
38 senate and the speaker of the house of representatives to provide  
39 recommendations on military issues and report on the progress of the military  
40 affairs commission.

41           2. Develop criteria, including accountability requirements, for  
42 awarding monies from the military installation fund established by section  
43 41-1512.01.

44           3. Review applications for monies to be awarded from the military  
45 installation fund.

1           4. Annually recommend to the department a priority listing of monies  
2 with available resources.

3           5. Recommend to the department how the monies in the military  
4 installation fund should be awarded.

5           E. For the purposes of this section, "military installation" means a  
6 military airport, **MILITARY HELIPORT** or ancillary military facility as defined  
7 in section 28-8461 or any real property that services, supports or is used by  
8 the military.

9           Sec. 20. Section 41-1512.01, Arizona Revised Statutes, is amended to  
10 read:

11           **41-1512.01. Military installation fund; report; definition**

12           A. The military installation fund is established consisting of  
13 revenues made available to the fund from any lawful source. The department  
14 of commerce shall administer the fund. On notice from the department, the  
15 state treasurer shall invest and divest monies in the fund as provided by  
16 section 35-313, and monies earned from investment shall be credited to the  
17 fund. The fund is exempt from the provisions of section 35-190 relating to  
18 lapsing of appropriations.

19           B. Monies in the fund are continuously appropriated for the purposes  
20 of this section.

21           C. The department, in conjunction with the military affairs commission  
22 established by section 41-1512, shall adopt by rule procedures for receiving  
23 and evaluating applications. If applications for monies exceed the amount  
24 available in the fund, the department may request applicants to reduce the  
25 amount of the applications or deny or award reduced amounts.

26           D. The department shall receive each application for fund monies and  
27 shall forward each application to the military affairs commission. The  
28 military affairs commission shall review each application and recommend to  
29 the department both of the following:

30           1. Each applicant that should be awarded monies from the fund.

31           2. The dollar amount that each applicant listed pursuant to paragraph  
32 1 of this subsection should be awarded from the fund.

33           E. The department shall consider the military affairs commission's  
34 recommendations and shall decide how the monies in the fund shall be awarded  
35 among the applicants. The department, after reviewing the recommendations by  
36 the military affairs commission, shall make the monies in the fund available  
37 for the purpose of military installation preservation and enhancement  
38 projects. Except as provided in subsection F of this section, after the  
39 department makes an award decision the department shall award the monies.

40           F. If the department does not comply with the military affairs  
41 commission's recommendation for the awards, within five days after the  
42 department's decision the department shall report in writing to the president  
43 of the senate, the speaker of the house of representatives and the  
44 governor. The report shall include the award decision of the department and  
45 the recommendation of the military affairs commission. The department shall

1 not distribute monies from the fund to the applicants for at least sixty days  
2 after the report is received.

3 G. The department shall award:

4 1. Eighty per cent of the monies in the fund for the following  
5 purposes, except that up to twenty per cent of this amount may be awarded to  
6 cities, towns and counties for the purpose of acquiring private land for the  
7 purposes prescribed in paragraph 2 of this subsection:

8 (a) Acquisition of private property for the purpose of preserving a  
9 military installation.

10 (b) Acquisition of real estate and rights to real estate and otherwise  
11 preserving real estate from development or mitigating impacts on development  
12 in high noise or accident potential zones as defined in section 28-8461 and  
13 in areas as required to support a military installation.

14 (c) Acquisition of real estate, property rights and related  
15 infrastructure that is vital to the preservation or enhancement of a military  
16 installation.

17 2. Twenty per cent of the monies in the fund to cities, towns and  
18 counties for military installation preservation and enhancement projects.

19 H. The legislature shall review the distribution formula prescribed in  
20 subsection G of this section at least once every four years.

21 I. Monies in the fund may be awarded for debt service on bonds issued  
22 by a political subdivision for the purpose of acquisition of private property  
23 for the purpose of preserving:

24 1. A military airport or ancillary military facility as defined in  
25 section 28-8461 if the land acquisition occurs after December 31, 2004.

26 2. A MILITARY HELIPORT AS DEFINED IN SECTION 28-8461 IF THE LAND  
27 ACQUISITION OCCURS AFTER DECEMBER 31, 2006.

28 J. The department shall annually report the awards made pursuant to  
29 this section. The report shall be in writing and shall be sent to the  
30 president of the senate, the speaker of the house of representatives and the  
31 governor.

32 K. For the purposes of this section, "military installation" has the  
33 same meaning prescribed in section 41-1512.